See 320-76F
Stam 934-A
TD 5.8: Sa 1/2/V.1/ch.6

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
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C-273

COMDTNOTE 16000

9350 7 MAY 1980

COMMANDANT NOTICE 16000

CANCELLED: 7 NOV 1980

Subj: CH-6 to Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual, COMDTINST M16000.3 (old CG-495)

1. PURPOSE. This Notice transmits a change to Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual by adding part 1-6 (The Marine Safety Manual), part 7-1 (Regulatory Development and Change), chapter 13 (Penalty Assessment and Criminal Violations), and subpart 14-1-20 (Numbering of Certificated but Undocumented/Non-State Numbered Vessels); revising parts 8-2 (International Relations) and 8-7 (Access to Information); and providing pen-and-ink corrections to the volume.

2. DIRECTIVES AFFECTED. Parts 1-5 (Law Enforcement) and 1-7 (Fees and Charges For Services) of the Merchant Marine Safety Manual (CG-203) are superseded by this notice.

3. SUMMARY OF CHANGES. Part 1-6 discusses the development and dissemination of this manual; part 7-1 discusses the regulations-writing process; part 8-2 updates information on nations parties to international maritime conventions; part 8-7 discusses the availability of data to the public and fees for providing such data; chapter 13 discusses the role of the district hearing officer and enforcement of the Federal Water Pollution Control Act; and subpart 14-1-20 indicates Coast Guard policy for numbering of undocumented vessels.

4. ACTION.

(a) Remove and insert the following pages:

DISTRIBUTION - SDL No. 111

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A																										
B	*	4	15*		5		2	*		5				200	1	1	2	1								
C					*		2		*			2	*												1	
D	1	2		1							1*	*														
E		2											2	2	*				1							
F	1		1							1									24							
G																										
H																										

NON-STANDARD DISTRIBUTION: (See page 3)

Remove	Insert
1-0:1, CH-1	1-0:1, CH-6
	1-6:1 through 1-6:5, CH-6
7-0:1 (To be developed)	7-0:1 through 7-1:3, CH-6
8-0:1 through 8-0:2, CH-1	8-0:1 through 8-0:2, CH-6
	8-2:1 through 8-2:10, CH-6
	8-7:1 through 8-7:5, CH-6
13-0:1 (To be developed)	13-0:1 through 13-2:15, CH-6
14-0:1 (Original)	14-0:1 through 14-1:2, CH-6

(b) Make the following pen-and-ink corrections:

(1) Subpart 2-1-31, p. 2-1:9, line 8, delete the words "... Commandant (G-P) via".

(2) Section 10-6-1B, p. 10-6:1, line 11, change to "subpart 86-4-10 of this manual.".

(3) Subpart 20-4-20, p. 20-4:2, lines 11 and 24, change staff symbol "G-MP-3/USP" to "G-MVI-4".

(c) Make an entry on the "Record of Changes" page at the front of the volume.

5. CHANGES. Suggestions for improvement to the Marine Safety Manual are encouraged. They should be submitted on Form CG-5122 which has been supplied with this volume.

HENRY H. BELL
Chief, Office of Merchant Marine Safety

Encl: (1) CH-6 to Volume I, Marine Safety Manual

Non-Standard Distribution:

A:b Commandant(G-MP-5)(20)
B:c CCGD12(mep) only(7)
B:h Tracen Alameda(2)
C:e Baltimore(41); San Francisco(40); Hampton Roads(27); Miami(24); Mobile(22); Boston, Honolulu(20); Jacksonville, Galveston, San Diego(18); Detroit(14); Portland ME, Corpus Christi, Chicago, Cleveland, Duluth(12); St. Louis(11); Providence, Pittsburgh, Wilmington, Charleston, Buffalo(10); Memphis, Portland OR(9); Huntington, Paducah, Port Arthur(8); San Juan, Milwaukee, Toledo, Anchorage(7); Cincinnati, Nashville, Tampa, Albany, St. Paul, Juneau, Valdez(6); Louisville(5); Savannah, Guam(3); Sturgeon Bay(2)
C:i Pago Pago only(1)
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D:k New York(3); Jacksonville, Houston, New Orleans, San Francisco(1)(extra)
D:l CG Liaison Officer, NWC only(1)
E:o Long Beach(25); New Orleans(16); New York(15); Houston(12); Philadelphia(6); Seattle(5); New Haven, Muskegon(4); Sault Ste Marie(3); New London, Humboldt Bay, Monterey(2)

Panama Canal Zone Liaison Officer (1)
DoJ Torts Branch - Washington D.C. (1)
DoJ Torts Branch - New York (1)
DoJ Torts Branch - San Francisco (1)

MARINE SAFETY MANUAL

CHAPTER 1—MARINE SAFETY PROGRAMS

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Part 1-2 . . . . . .Marine Environmental Protection (MEP) Program
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Part 1-4 . . . . . .Recreational Boating Safety (RBS) Program
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1-4-5 . . . . . .Federal Boat Safety Act of 1971
1-4-10 . . . . . .U.S. Coast Guard Auxiliary
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PART 1–6—THE MARINE SAFETY MANUAL

1–6–1. GENERAL

1–6–1A. INTRODUCTION

The *Marine Safety Manual* is the primary policy and procedures manual for the marine safety programs of the Coast Guard. It has been promulgated for the use, assistance, and guidance of all personnel assigned to marine safety duties, and it prescribes the essential functions which must be performed in order to attain the overall marine safety objectives of the Coast Guard.

The purpose of this manual is to document the policy and procedures concerning the entire scope of marine safety functions performed by the COTP and OCMI. These functions include the programs of Commercial Vessel Safety (CVS), Port Safety and Security (PSS), and Marine Environmental Protection (MEP), and certain investigative functions of the Recreational Boating Safety (RBS) Program. The merger of these programs in the provisions of this manual may not, however, cover certain marine safety situations which may be best handled with experienced good judgment. Hence, the manual is intended as a guide for executing consistent and uniform administration of marine safety activities, without unduly hampering independent action and situational judgment by marine safety personnel.

Decisions and actions should be taken at the lowest competent level; otherwise, lower levels are deprived of opportunities to exercise judgment, and upper levels become clogged with unnecessary details. The "lowest competent level" is determined by the question: Is the matter at hand entirely within the purview of a given individual? If that individual's responsibilities do not encompass all aspects of the matter, then it should be referred to, acted upon, or decided at some higher level.

A clearly-defined and well-disseminated policy is indispensable to the successful conduct of the Coast Guard's marine safety activities. District commanders, Commander, Activities Europe, and unit commanding officers *shall insure* that they and their personnel who perform marine safety duties are familiar with the provisions of this manual. This is particularly important in view of the large amount of new and revised marine safety policy contained in this manual, which has not been subjected to long-term implementation and evaluation. For the convenience of the reader, new policy and significant changes from previous policy are identified by the symbol for easy recognition.

1–6–1B. CONFLICTS

This manual is intended to be used in concert with appropriate marine safety laws and regulations. In any case of apparent conflict between provisions of this manual and any law, rule, or regulation, the requirements of law, rule, or regulation shall be observed . Commandant (G-M, G-W, and/or G-B, as applicable) shall be informed of the conflict as soon as possible. In any case of apparent conflict between this manual and conventional practice, the appropriate Headquarters staff element should be contacted for resolution of any doubt. In either case, appropriate action will be taken by the Commandant to modify any conflicting manual provision.

1–6–1C. CONTENTS OF THE MANUAL

The complete Marine Safety Manual (MSM) is intended to consist of ten volumes, as follows:

I – Administration and Management
II – Materiel Inspection
III – Marine Industry Personnel
IV – Merchant Marine Technical
V – Investigations
VI – Ports and Waterways Activities
VII – Documentation
VIII – Classified Supplement
IX – Master Index and References
X – NVC's

The material in these volumes has been arranged to coincide with the standard functional activities of a district commander and a marine safety office, as practical. These functional activities can be found in the *Organization Manual* (CG-229) and the *Organization Manual For Field Units* (CG-229–1). (See part 3–3 of this manual.)

Volumes and chapters of this manual are being printed and distributed as they are developed and issued by the marine safety program directors and managers. Thus, until the entire manual is published, the nonsuperseded portions of affected publications will remain in effect. Each volume of this manual has its own letter of promulgation and a list of the publications and directives affected by the material in the volume.

1–6–1D. FORMAT

Each volume of this manual is divided into chapters (e.g., 61), parts (61–2), subparts (61–2–1), sections (61–2–1A), and paragraphs (61–2–1A(1)). Examples are subpart 52–7–5 (Manning of Motorboats) and paragraph 30–10–30C(5) (Lifesaving Equipment on Seagoing Dump Scows).

Pages are numbered in numerical sequence (:1, :2, etc.) within a part; e.g., 33–3:3 (the third page of part 33–3).

Plates and tables are numbered in numerical sequence (.1, .2, etc.) according to the number for the text with which it appears; e.g., plate 30–14–10.1 is the first plate that supplements the text in subpart 30–14–10, and table 86–3–25D(1).3 is the third table that supplements the text in paragraph 86–3–25D(1).

Note: The manual's subparts are sequentially numbered in multiples of five (1–4–1, 1–4–5, 1–4–10, etc.) to conform to the format of the old *Merchant Marine Safety Manual* (CG-203). This facilitates future expansion of the parts of the manual without searching for and changing numerous references throughout the text of the manual.

1–6–1E. PUBLICATIONS AND DIRECTIVES AFFECTED

The entire, ten-volume *Marine Safety Manual* has been planned to supersede and cancel the following publications in their entirety:

(1) *Merchant Marine Safety Manual* (CG-203);
(2) *Reporting Requirements for Hearings, Depositions, Statements, Marine Boards of Investigation, and Conferences* (CG-203–1);
(3) *Port Security Manual* (CG-299);
(4) *Classified Supplement to the Port Safety/Security Manual* (CG-299–1); and
(5) *Boating Accident Investigator's Manual* (CG-472).

CG-203–1 has been replaced by part 70–8 (Transcribed Records) of this manual; the *Port Security Manual* (CG-299) has been cancelled by COMDTNOTE 16000 of 5 April 1979, since updated port security guidance is contained in volume VI (Port and Waterways Activities); and the *Boating Accident Investigator's Manual* (CG-472) has been replaced by chapter 75 (Boating Accident Investigations). The nonsuperseded portions of these publications shall remain in effect until cancelled by future changes to this manual.

In addition to the above publications, various specified Commandant Instructions and Notices are being incorporated into this manual. Each letter of promulgation and change notice should be consulted for specific information.

1–6–1F. AMENDMENTS

When required, modifications to this manual will be issued as consecutively numbered changes. A text-editing system is being used for the speedy promulgation and amendment of this manual, since effective continuing policy requires timely constructive feedback. All personnel, operating units, and levels of management are encouraged to use the supplied self-mailer, Form CG-5122, when offering substantive comments and input regarding improvement of

the manual. Although the Coast Guard is richly endowed with tradition, the conviction of "that's the way we've always done it" is not a valid reason for continuing in a given manner. The Coast Guard is in a period of continuous change with rapid social and technical development. Constant review of procedures is necessary, along with imaginative and innovative ways of achieving greater efficiency and effectiveness.

Form CG-5122 should be completed in accordance with the instructions contained thereon and sent directly to Commandant (G-MP-5), which will coordinate a response with input from the appropriate Headquarters staff element(s).

1–6–1G. COMMANDANT (G-MP-5)

The chief of the Marine Safety Manual staff, Commandant (G-MP-5), is the control and clearance coordinator for all material that is developed and modified in the manual. A separate, full-time, Headquarters staff component is necessary for the proper upkeep of this manual, especially in light of the increasing number and complexity of activities associated with the Coast Guard's marine safety programs. Commandant (G-MP-5) helps to eliminate conflicting directives, duplication of effort, and inefficient use of administrative resources of the marine safety programs.

1–6–1H. GENDER TERMINOLOGY

The pronouns "he" and "she" are used throughout the text of this manual in the generic sense (referring to both males and females) to avoid awkward construction. A vessel is referred to as "she" with "her" equipment, an OCMI has "his" authority, etc. Except in those instances where the context obviously implies a specific gender, all words which import one gender are intended to mean the other gender as well.

1–6–1I. DUPLICATE INFORMATION

This manual is not intended to duplicate detailed policy statements and instructions found in other current Coast Guard directives and publications and professionally-related references. Thus, it is necessary for each marine safety unit to have, at a minimum, all of the required directives and publications which are listed for that unit in the latest edition of COMDTNOTE 5600, *Directives, Publications and Reports Index* (old CG-236). Additionally, each unit shall maintain an appropriate number of copies of titles 33, 46, and 49 of the United States Code (U.S.C.) and Code of Federal Regulations (CFR). (See part 4–5 of this manual.)

1–6–5. DISTRIBUTION AND ACCOUNTABILITY

1–6–5A. DISTRIBUTION

In accordance with *standard* distribution allowances, sufficient copies of this manual have been provided to district commanders, field units, subunits, and Reserve units for each level of administration, management, and review. These copies are for the use of marine safety personnel (COTP's, OCMI's, executive officers, department heads, district division and branch chiefs, etc.) in their office spaces. These copies are also available for review and copying by non-Coast Guard personnel under the Freedom of Information Act (FOIA) for the training of reservists, for use by instructors at RTC Yorktown, etc. These manuals are allowed for a billet/position and *not* for an individual person filling such a billet/position.

In addition to the standard allowances for district and unit office spaces, additional, *nonstandard* allowances of this manual have been provided for use by individuals in their day-to-day activities away from office spaces, while students at RTC Yorktown, for reading at home, etc. The number of additional copies provided is in accordance with a unit's authorized billet and position allowances. In general, a copy of the manual is provided for each

commissioned officer in the marine safety programs, additional enlisted personnel (such as assistant marine inspectors), and civilians who have an everyday need for the use of this manual (such as administrative law judges). A copy should be issued to an individual upon reporting to a unit and should be returned for proper accountability when an individual departs that unit.

Requests for changes in allowances shall be submitted in accordance with the instructions contained in the front of the latest edition of COMDTNOTE 5600.

1–6–5B. ACCOUNTABILITY AND MAINTENANCE

Requests have been received by Commandant (G-MP-5) for replacement copies of the Marine Safety Manual due to loss, personnel transfers, etc. Each volume of the manual and its changes are a permanent part of the unit's publication allowance and *are not* the *personal* property of assigned personnel. In this regard, appropriate accountability procedures shall be initiated and maintained for this manual. Should anyone mistakenly carry away a manual, or if replacement/extra copies are needed for other reasons, the ordering instructions contained in the latest edition of COMDTNOTE 5600 shall be complied with.

In addition, district commanders and unit commanding officers shall insure that the copies of the manual are kept up-to-date in accordance with the latest edition of COMDTNOTE 5600.

1–6–10. AVAILABILITY TO THE PUBLIC

This manual contains policy, procedures, instructions, and information that affect members of the public. Therefore, under the Freedom of Information Act (FOIA), the Commandant, district commanders, and the Superintendent of the Academy are required to make this manual available for public inspection and copying at a document inspection facility in accordance with 49 CFR part 7 and COMDTINST 5212.6 (series). However, this does not mean that the manual must be physically located and maintained in the space designated as the document inspection facility. It is adequate that the manual could be brought to the document inspection facility for inspection, without charge, by any person visiting the facility during normal working hours. Fees for record copying, and other services are contained in 49 CFR 7.91 through 7.101. (See also part 8–7 of this manual.)

As a general practice, a requester should be advised that all volumes of this manual (including changes) are available for purchase through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Commandant (G-MP-5) has made this manual available to the general public through GPO's subscription service. This manual and its changes are *not* available for over-the-counter purchasing at regional GPO bookstores.

A subscription period runs for an "indefinite" period of time (no less than one year) during which subscribers receive the basic manual volumes *and* all subsequent changes issued by the Commandant. Renewal notices are sent to subscribers by the GPO at the end of the subscription period in ample time to effect continuity of service, along with any notices of price changes for the service. As an added convenience, an individual volume and changes may be subscribed to separately. Subscription fees and ordering information for the two subscription categories (volumes with changes *or* changes only) are contained in plate 1–6–10.1. Additional volumes will be made available through the subscription service as they are developed.

Since the primary purpose of GPO's subscription service is to standardize and improve the availability of public information concerning marine safety programs and activities, district commanders, COTP's, and OCMI's are strongly encouraged to publish subscription service information for this manual in unit newsletters and bulletins. (See part 8–5 of this manual.)

MARINE SAFETY MANUAL

PLATE 1-6-10.1

G.P.O. SUBSCRIPTION INFORMATION FOR MSM

Subscription to Volumes /Changes:		Domestic	Foreign
Volume I	ADMINISTRATION AND MANAGEMENT	$ 11.00	13.75
Volume II	MATERIAL INSPECTION	7.50	9.40
Volume III	MARINE INDUSTRY PERSONNEL	7.00	8.75
Volume IV	MERCHANT MARINE TECHNICAL	(In Development)	
Volume V	INVESTIGATIONS	7.00	8.75
Volume VI	PORTS AND WATERWAYS ACTIVITIES	6.00	7.50
Volume VII	INDEX	7.25	9.10
		$ 45.75	57.25
Subscription to Changes ONLY:			
Volume I Changes (Current)		9.00	11.25
Volume II Changes (Current)		6.00	7.50
Volume III Changes (Current)		5.00	6.25
Volume V Changes (Current)		4.25	5.35
Volume VI Changes (Current)		4.25	5.35
		$ 28.50	35.50

NOTE 1: The Index will be revised and re-distributed as Volume IX - REFERENCES in 1980-81. Material on DOCUMENTATION will be developed and distributed as Volume VII at a future date.

NOTE 2: Civilian orders for the Manual should be addressed to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Requests for the Manual from Coast Guard units shall be forwarded to Commandant (G-CMA-3).

MARINE SAFETY MANUAL

CHAPTER 7—ADMINISTRATION - MISCELLANEOUS

CONTENTS

Part 7-1 . . . . . .Regulatory Development and Change
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7-1-5 . . . . . .Federal Register Procedures
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7-1-15 . . . . . .Initiation of Regulatory Projects
7-1-20 . . . . . .Drafting and Clearing Proposed Rules
7-1-25 . . . . . .Suggestions for Improvement

PART 7–1—REGULATORY DEVELOPMENT AND CHANGE

7–1–1. GENERAL

The regulations in subpart 1.05 of Title 33, Code of Federal Regulations (CFR) set forth basic procedures that are followed in preparing and publishing Coast Guard regulations, presently codified in titles 33, 46, and 49 of the Code of Federal Regulations. Additional procedures are also contained in the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). This act requires, in part, that before regulations are finalized they must normally be published in the Federal Register as proposed regulations, and that interested persons must be given an opportunity to comment on the proposals. Comments are usually submitted in writing, for inclusion in the official file on the proposed regulations, but may be presented orally if a public hearing is held.

7–1–5. FEDERAL REGISTER PROCEDURES

When the Coast Guard has a need to assemble information for anticipated regulations, or for any other reason which indicates that early public involvement would be appropriate, an Advance Notice of Proposed Rulemaking may be published in the Federal Register. The purposes of an advance notice are to obtain early public input and to identify tentative or alternative courses of action which may be followed in preparing regulations. However, under the provisions of the Administrative Procedures Act, an advance notice, by itself, is not sufficient public notice for the later issuance of a final rule. Therefore, when a course of action has been selected, a Notice of Proposed Rulemaking is published in the Federal Register.

A Notice of Proposed Rulemaking informs the general public that the Coast Guard intends to issue final rules. This notice contains a draft of the rules, or a statement of their contents, and a statement of the major issues in, and the reasons for, the rules. The public is usually given a minimum of 45 days to review the proposal and to provide written comments, with the address for submitting comments and the deadline for submission stated in the notice. If one or more public hearings are to be held, the time and place(s) of the hearing(s) are announced in the notice or in a subsequent notice of public hearing. Comments which are received in response to the notice are evaluated, and a final rule is published in the Federal Register. On occasion, a determination is made, based upon comments received and upon analysis of the proposed rulemaking within the Coast Guard, to withdraw the proposal or make major modifications to it before issuing a final rule. If the proposal is substantially modified before issuing a final rule, the modified proposal will be published in the Federal Register to provide further opportunity for public comment.

A final rule document contains a discussion of comments received and explains the action taken by the Coast Guard concerning the comments. All changes to the proposed rules must be supported by comments on the proposal or by analysis of the proposed rules within the Coast Guard. New rules and changes to existing rules are published in the Federal Register as they occur, and their effective dates are normally not less than 30 days after publication. Rules can be made effective in less than 30 days after publication, if it is determined that good cause exists. This determination and the reasons therefor are included in the final rule document.

The Administrative Procedure Act lists certain types of rules for which notice and comment procedures are not required before issuing final rules. These rules include interpretive rules; rules of agency organization, procedure, and practice; general statements of policy; and rules relating to military, foreign affairs, and certain other functions. Notice and comment procedures are also not required with respect to rules for which these procedures are impracticable, unnecessary, or contrary to the public interest. For example, security zones or safety zones may be established without prior notice

when there is insufficient time to permit notice and comment. If a final rule is published without following notice and comment procedures, a statement of the reasons for not following these procedures is provided in the final rule document published in the Federal Register.

7–1–10. CODIFICATION AND NOTICE

Most regulations have continuing legal effect and, therefore, are published in the Code of Federal Regulations (CFR). The volumes containing Coast Guard regulations are revised and reprinted annually to reflect all changes published as final rules in the Federal Register during the preceding year. Currently, the revision dates are as follows:

- Title 33 CFR – revised as of 1 July;
- Title 46 CFR – revised as of 1 October;
- Title 49 CFR – revised as of 1 October.

Due to publication and distribution delays, the revised CFR volumes are usually not received until 3 to 6 months after the revision date.

The primary purpose for publishing final rules in the Federal Register, and subsequently in the Code of Federal Regulations is to provide notice to members of the public of the existence of the rules and their contents. With few exceptions, regulations cannot be enforced against anyone unless they have been previously published in the Federal Register as final rules.

7–1–15. INITIATION OF REGULATORY PROJECTS

Regulatory projects are initiated from a number of sources. From time to time, the President mandates rulemaking actions, and certain laws administered by the Coast Guard require or authorize rulemaking. The majority of regulatory projects are initiated by the various staff elements at Headquarters in support of marine safety, environmental protection, or other existing programs. However, recommendations for changes to regulations can come to Coast Guard Headquarters from industry, Coast Guard field unit personnel, or other interested persons. Except for the regulations described in 33 CFR 1.05–1(d), and certain other regulations, all regulatory actions are prepared at Coast Guard Headquarters.

To initiate a regulatory project, the Coast Guard must be aware that a problem exists. A Headquarters project manager is then appointed to analyze alternative solutions to the problem, the benefits and burdens of each alternative, the persons to be affected, and the associated environmental, economic, and social impacts. This analysis forms the principal basis for determining if any regulations are needed. A work plan, setting forth the need for the regulation and the objectives to be met, along with a summary of this analysis, is prepared for review by the Marine Safety Council, Commandant (G-CMC).

7–1–20. DRAFTING AND CLEARING PROPOSED RULES

Broad policy guidance on proposed rules is provided by the Marine Safety Council. The Council is comprised of the chiefs of the following offices:

- Merchant Marine Safety (G-M);
- Marine Environment and Systems (G-W);
- Navigation (G-N);
- Operations (G-O);
- Engineering (G-E);
- Chief Counsel (G-L);
- Boating Safety(G-B);
- Public and International Affairs (G-A)

The function of the Council is to advise the Commandant on all regulatory matters, taking into ac-

count the effect of proposed regulations on the environmental, economic, and social goals of the government. Normally, actual work on drafting regulations does not begin until the Council has agreed that there is a need for the regulation and has given policy approval to the objectives and methods set forth in the work plan. If a regulation project is classified as "significant" under Executive Order 12044 and DOT implementing directives, the Commandant must approve the work plan. A member of the staff of the Chief Counsel (G-L) is assigned to assist the project manager in drafting the proposed rules. This draft is then evaluated by all appropriate Headquarters staffs and is cleared as directed by the Marine Safety Council.

All rulemaking projects initiated at Headquarters are docketed in the office of the Executive Secretary of the Marine Safety Council. The assigned docket number remains with the project until the rulemaking procedure is completed. All documents associated with the project are filed by the Executive Secretary under that docket number and are available for inspection and copying by the general public. After the proposed rule has been cleared, it is signed by the Commandant or authorized office chief and published in the Federal Register. After public comments have been evaluated, the final rule or other subsequent document is drafted and cleared in a manner similar to the notice of proposed rulemaking.

7–1–25. SUGGESTIONS FOR IMPROVEMENT

Whenever a situation arises which causes Coast Guard personnel to believe that a particular regulation is not in the best interest of safety or protection of the environment, or that an additional regulation is needed, that situation should be brought to the attention of Commandant (G-B), (G-M), or (G-W), as appropriate, via the chain of command. This is particularly desirable for regulations which are misinterpreted or which appear to place an unreasonable or unnecessary requirement on those who would be regulated. Both the COTP/OCMI and district commander should include recommendations and additional information believed to be of benefit when considering proposed changes.

Coast Guard personnel are encouraged to comment on rulemaking proposals, either in an official capacity, in which case the comments should be submitted to Commandant (G-CMC) via the chain of command; or as private individuals, in which case comments should not be submitted on official stationery. In the latter case, however, it is not improper to state that the submitter is a member of the Coast Guard.

General inquiries concerning rulemaking procedures and projects in progress may be directed to the Executive Secretary of the Marine Safety Council. The Department of Transportation publishes a semiannual agenda in the Federal Register, which lists all rulemaking projects and their contact persons, and anticipated dates for action on these projects.

MARINE SAFETY MANUAL

CHAPTER 8—EXTERNAL RELATIONS

CONTENTS

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8–1–10 . . . . . .U.S. Customs Service
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. . . . . .Administration (OSHA)
8–1–25 . . . . . .Federal Communications Commission (FCC)
8–1–30 . . . . . .Nuclear Regulatory Commission (NRC)
8–1–35 . . . . . .National Oceanic and Atmospheric
. . . . . .Administration (NOAA)
8–1–40 . . . . . .Environmental Protection Agency (EPA)
8–1–45 . . . . . .National Transportation Safety Board (NTSB)
8–1–50 . . . . . .U.S. Geological Survey
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. . . . . .Contingency Plan
8–4–1 . . . . . .General
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8–5–1 . . . . . .Introduction
8–5–5 . . . . . .Marine Safety and the Public
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8–5–15 . . . . . .Unit Public Affairs Officer
8–5–20 . . . . . .Media Relations

8–5–25 . . . . . .Responding to the Press in Emergency or Disaster Situations

Part 8–6 . . . . . .Regulatory Relationship with the Maritime Industry
8–6–1 . . . . . .General
8–6–5 . . . . . .The Individual Enforcement Officer and Industry
8–6–10 . . . . . .Professional Contacts

Part 8–7 . . . . . .Access to Information
8–7–1 . . . . . .Introduction
8–7–5 . . . . . .Availability of Records to the Public
8–7–10 . . . . . .The Privacy Act
8–7–15 . . . . . .Fees for Information Services
8–7–20 . . . . . .Exemptions and Reduced Fees
8–7–25 . . . . . .Transcripts
8–7–30 . . . . . .Alternate Sources

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PART 8–2—INTERNATIONAL RELATIONS

▼8–2–1. INTRODUCTION.

This part provides a brief description of the Intergovernmental Maritime Consultative Organization (IMCO) and a consolidated list of nations which are parties to international conventions of interest in marine safety activities. Explanations of additional international organizations and activities of concern to the Coast Guard can be found in *Coast Guard Participation in International Affairs* (CG-389).

▼8–2–5. IMCO

8–2–5A. GENERAL

The Coast Guard is actively engaged in the work of IMCO, a specialized agency of the United Nations. Although the charter of IMCO allows it to consider such problems as discriminatory and unnecessary restrictions by governments which affect shipping, as well as other problems relating to ocean transport, it has thus far limited itself to problems of safety at sea, control of pollution from ships, and technical cooperation among governments.

Although the U.S. Department of State has the prime responsibility for establishing U.S. positions in these matters, it looks to the Coast Guard as the agency having trained personnel with technical knowledge in maritime safety and environmental protection activities for effective participation in, and implementation of, international agreements in these specialized fields. The Coast Guard normally furnishes the principal U.S. delegates to the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC) of IMCO, as well as representatives for many of the associated subcommittees. The Coast Guard also provides representatives to the Legal Committee and some of its working groups.

IMCO is composed of seven bodies: the Assembly, the Council, the Maritime Safety Committee, the Marine Environment Protection Committee, the Legal Committee, the Facilitation Committee, and the Committee on Technical Cooperation.

8–2–5B. IMCO ASSEMBLY

The Assembly is the main body of IMCO which must approve most actions taken by the organization. The Coast Guard has furnished the representative, alternate representatives, and advisors on U.S. delegations to Assembly meetings, which are usually held once every two years.

8–2–5C. IMCO COUNCIL

The Council is primarily concerned with nontechnical matters, and acts for the Assembly when the latter is not in session. There are presently twenty-four member nations represented on the Council, including the United States. The Coast Guard furnishes advisors to Council meetings.

8–2–5D. MSC

The Maritime Safety Committee (MSC) handles matters of a technical nature relating to safety. The Coast Guard heads the delegation to these meetings. The Committee is open to all member nations of IMCO. Additionally, nations which are parties to a Committee-related convention will be invited to participate when the Committee is discussing these conventions. Under the Maritime Safety Committee there are eleven subcommittees, to which the Coast Guard furnishes representatives and advisors.

8–2–5E. MEPC

The Marine Environment Protection Committee (MEPC) is the committee responsible for the execution and coordination of all IMCO technical activities relating to the prevention and control of marine pollution from ships. It undertakes activities and dissemination of information regarding such matters as ship design, construction, equipment, operations, the establishment of standards, and pollution

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control. Scientific activities such as the evaluation of chemical hazards, determination of water quality criteria, and the development of remedial measures are also deliberated upon. The MEPC also deals with the development and review of all international conventions concerning marine pollution from ships. Membership on the MEPC is open to all member states of IMCO and nations which are parties to the 1973 International Convention for the Prevention of Pollution from Ships. The Coast Guard furnishes representatives and advisors to the MEPC.

8–2–5F. LEGAL COMMITTEE

The Legal Committee deals with both public and private legal aspects of ocean affairs. It has prepared, or contributed to the preparation of, the Brussels 1969 Civil Liability and Intervention Convention on Oil Pollution, the Brussels 1971 International Oil Pollution Fund, and the 1976 International Convention for the Limitation of Shipowners Civil Liability for Maritime Claims. The Legal Committee establishes ad hoc working groups to develop draft conventions when necessary. The Coast Guard furnishes representatives and advisors for Legal Committee meetings, and also sends delegates to international legal conferences.

8–2–5G. FACILITATION COMMITTEE

The Facilitation Committee deals with the economic aspects of international maritime traffic, through the administrative functions of the 1965 Convention on Facilitation of International Traffic. The participants have a common desire to facilitate maritime traffic by simplifying and minimizing the formalities, documentary requirements, and procedures administering the arrival, stay, and departure of ships engaged in international trade. The Research and Special Programs Administration (DPB-40) of the Department of Transportation participates on this committee.

8–2–5H. COMMITTEE FOR TECHNICAL COOPERATION

The Committee for Technical Cooperation performs an advisory function relating to IMCO's program of technical assistance to developing countries, and concerns itself with the review of technical cooperation projects. The Coast Guard provides the alternate representative to this committee, which usually meets twice a year.

▼8–2–10. NATIONS WHICH ARE PARTIES TO VARIOUS INTERNATIONAL CONVENTIONS

Plate 8–2–10.1 contains a summary of nations which are parties to various international conventions concerned with international marine safety and pollution activities. The plate will be updated by Commandant (G-AIA) as appropriate. Additional or clarifying information regarding plate 8–2–10.1 may be obtained by contacting Commandant (G-AIA).

Chapter 32 (Inspection and Examination of Foreign Vessels) of this manual contains a summary of each of the conventions listed in plate 8–2–10.1.

PLATE 8-2-10.1
NATIONS WHICH ARE PARTIES TO VARIOUS INTERNATIONAL CONVENTIONS

	1954/62 OIL POLLUTION[1]	69 AMEND (54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS.[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
AFGHANISTAN											X				
ALBANIA															
ALGERIA	X	X		X			X		X				X		
ANGOLA													X		
ARGENTINA	X	X		X	X		X		X	X		X			
AUSTRALIA	X	X		X			X								
AUSTRIA	X	X		X			X		X	X					
BAHAMAS	X	X		X	X		X	X	X	X					
BAHRAIN															
BANGLADESH				X			X		X						
BARBADOS													X		
BELGIUM	X	X		X	X		X	X	X			X	X		
BENIN															
BHUTAN															
BOLIVIA															
BOTSWANA															
BRAZIL				X			X		X			X			
BULGARIA	X	X		X			X		X	X		X			
BURMA				X											
BURUNDI															
BYELORUSSIA SSR										X	X				
CANADA	X	X		X	X		X		X		X		X		
CAPE VERDE					X		X		X		X				
CEN. AFRIC. REP.															
CHAD															
CHILE	X	X		X			X		X		X				
CHINA*				X	X		X		X			X			

PLATE 8-2-10.1 (CONTINUED)

	1954/62 OIL POLLUTION[1]	69 AMEND (54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS.[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
COLOMBIA															
COMORES															
CONGO															
COSTA RICA															
CUBA				X			X	X			X	X			
CYPRUS				X			X								
CZECHOSLOVAKIA				X			X		X	X					
DPR OF KOREA (NORTH)															
DEM. KAMPUCHEA				X											
DEMOCRATIC YEMEN	X	X		X			X								
DENMARK	X	X		X	X		X	X	X	X	X	X			
DOM. REPUBLIC	X	X					X	X	X		X				
ECUADOR				X			X	X	X						
EGYPT	X	X		X			X					X	X		
EL SALVADOR															
EQ. GUINEA				X											
ETHIOPIA															
FIJI	X	X		X			X	X							
FINLAND	X	X		X			X	X	X			X			
FRANCE	X	X		X	X		X	X	X	X	X	X	X		
GABON				X											
GAMBIA				X											
GERMANY DEM. REP. (EAST)	X	X		X	X		X	X	X	X	X				
GERMANY FED. REP. (WEST)	X	X		X	X		X	X	X	X	X				
GHANA	X	X		X			X	X	X				X		
GREECE	X	X		X			X		X						
GRENADA															
GUATEMALA											X				

PLATE 8-2-10.1 (CONTINUED)

	1954/62 OIL POLLUTION[1]	69 AMEND (54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
GUINEA				X											
GUINEA BISSAU													X		
GUYANA															
HAITI				X							X				
HONDURAS				X			X								
HUNGARY				X	X		X		X	X	X				
ICELAND	X	X		X			X		X		X				
INDIA	X	X		X	X		X		X	X					
INDONESIA				X			X		X						
IRAN				X			X								
IRAQ				X											
IRELAND	X	X		X			X		X				X		
ISRAEL	X	X		X	X		X		X			X			
ITALY	X	X		X			X	X	X	X		X			
IVORY COAST	X	X		X			X								
JAMAICA				X					X						
JAPAN	X	X		X			X	X	X	X					
JORDAN	X	X									X				
KENYA	X	X		X			X				X				
KUWAIT	X	X		X	X		X		X						
LAOS, PEOPLES DEM. REP.															
LEBANON	X	X		X			X	X							
LESOTHO															
LIBERIA	X	X		X	X		X	X	X	X		X			
LIBYAN ARAB. REP.	X	X		X			X				X				
LIECHTENSTEIN															
LUXEMBOURG															
MADAGASCAR	X	X		X			X								

PLATE 8-2-10.1 (CONTINUED)

	1954/62 OIL POLLUTION[1]	69 AMEND I54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS.[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
MALAWI															
MALAYSIA				X			X								
MALDIVES				X			X								
MALI															
MALTA	X	X					X								
MAURITANIA				X			X					X			
MAURITIUS													X		
MEXICO	X	X		X	X		X	X	X		X	X			
MONACO	X	X		X	X		X	X	X		X				
MOROCCO	X	X		X			X	X	X		X				
MOZAMBIQUE															
NAURU				X											
NEPAL															
NETHERLANDS	X	X		X	X		X	X	X		X		X		
NEW ZEALAND	X	X		X			X	X	X	X	X	X	X		
NICARAGUA				X											
NIGER															
NIGERIA	X	X		X			X		X		X				
NORWAY	X	X		X	X		X	X	X		X	X			
OMAN				X			X								
PAKISTAN				X			X		X						
PANAMA	X	X		X	X		X	X	X		X	X	X		
PAPUA NEW GUINEA				X			X		X						
PARAGUAY				X											
PERU				X	X		X		X			X			
PHILIPPINES	X	X		X			X				X	X			
POLAND	X	X		X			X	X	X	X			X		
PORTUGAL	X	X		X			X	X	X		X		X		

PLATE 8-2-10.1 (CONTINUED)

	1954/62 OIL POLLUTION[1]	69 AMEND (54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS.[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
QUATAR	X	X		X			X		X						
REP. OF KOREA (SOUTH)	X			X			X		X	X					
SOC. REP. VIETNAM				X			X								
ROMANIA				X	X		X		X	X					
RWANDA															
SAN MARINO															
SAO TOME AND PRINCIPE															
SAUDI ARABIA	X	X		X			X		X	X					
SENEGAL	X	X		X			X	X	X						
SEYCHELLES				X			X								
SIERRA LEONE															
SINGAPORE				X			X		X						
SOMALIA				X			X								
SO. AFRICA				X			X		X		X				
SPAIN	X	X		X	X		X	X	X	X	X	X	X		
SRI-LANKA				X			X		X						
SUDAN															
SURINAM	X	X					X	X							
SWAZILAND															
SWEDEN	X	X		X	X		X	X	X		X				
SWITZERLAND	X	X		X			X		X						
SYRIAN ARAB. REP.	X	X		X			X	X	X			X			
THAILAND															
TOGO									X						
TONGA				X	X		X		X						
TRINIDAD & TOBAGO				X	X		X		X						
TUNISIA	X	X		X			X	X	X		X				
TURKEY				X			X								

PLATE 8-2-10.1 (CONTINUED)

	1954/62 OIL POLLUTION[1]	69 AMEND (54 OIL POL.)[2]		1960 SOLAS[3]	1974 SOLAS[4]		1966 LOAD LINES[5]	1969 INTERVENTION ON HIGH SEAS, OIL POLLUTION[6]	1972 COLLISION REGS.[7]	1972 CONTAINER SAFETY CONV.	1972 LONDON DUMPING CONV.	1936 PROFICIENCY (ILO 53)	1946 CERTIFICATION (ILO 74)		
UGANDA															
UKRANIAN SSR					X					X	X				
USSR	X	X		X	X		X	X	X	X	X				
UNITED ARAB EMIRATES											X				
UNITED KINGDOM	X	X		X	X		X	X	X	X	X		X		
UNITED REP. CAMEROON															
UNITED REP. TANZANIA															
USA	X	X		X	X		X	X	X	X	X	X	X		
UPPER VOLTA															
URUGUAY	X	X		X	X		X		X						
VENEZUELA	X	X		X			X								
W. SAMOA				X			X		X						
YEMEN	X	X		X	X		X	X	X	X					
YUGOSLAVIA	X	X		X	X		X	X	X		X	X	X		
ZAIRE				X			X		X		X				
ZAMBIA				X			X								

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PLATE 8-2-10.1 (cont.)

FOOTNOTES

* For purposes of this plate, the name "CHINA" refers to both the People's Republic of China and Taiwan unless otherwise specified.

1. The 1954/62 Oil Pollution Convention has been extended to the following territories:

Netherlands Antilles;
Puerto Rico, Panama Canal Zone, Virgin Islands, American Samoa, and Trust Territories of the Pacific Islands;
Midway Islands, Wake Island, and Johnston Island.

2. The 1969 Amendments to the 1954 Convention for the Prevention of Pollution of the Sea by Oil has been extended to Netherlands Antilles.

3. The 1960 SOLAS Convention has been extended to the following territories:

Netherlands Antilles, Hong Kong,
Guam, Puerto Rico, Virgin Islands, and Bermuda;
Canal Zone, American Samoa, and Trust Territories of the Pacific Islands;
Midway Islands, Wake Island, and Johnston Island.

4. The 1974 SOLAS Convention enters into force on 25 May 1980.

5. The 1966 Load Lines Convention has been extended to the following territories:

Netherlands Antilles;
Puerto Rico, Guam, Canal Zone, Virgin Islands, American Samoa, and Trust Territories of the Pacific Islands;
Midway Islands, Wake Island, and Johnston Island;
Hong Kong and Bermuda.

6. The 1969 Intervention Convention has been extended to the following territories:

Puerto Rico, Guam, Canal Zone, Virgin Islands, American Samoa, and Trust Territories of the Pacific Islands;
Hong Kong;
Netherlands Antilles.

PLATE 8-2-10.1 (cont.)

7. The 1972 COLREGS Convention applies provisionally in respect of the following states:

Solomon Islands;
Tuvalu.

The Convention has been extended to the following territories:

Hong Kong;
Puerto Rico, Guam, Canal Zone, Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, Midway Islands, Wake Island, Johnston Island, Palmyra Island, Kingman Reef, Howland Island, Baker Island, Jarvis Island, and Navassa Island.
Bailiwick of Jersey, Bailiwick of Guernsey, and Isle of Man;
Belize;
Bermuda;
British Virgin Islands;
Cayman Islands;
Falkland Islands and Dependencies;
Gibraltar;
Gilbert Islands;
Monserrat;
Pitcairn Islands Group;
St. Helena and Dependencies;
Turks and Caicos Islands.

PART 8–7—ACCESS TO INFORMATION

8–7–1. INTRODUCTION

The Freedom of Information Act (FOIA) (5 U.S.C. 552) reflects the broad Congressional mandate that all records in Federal agency files be made available to the public upon request subject to only a few exceptions. The Privacy Act (5 U.S.C. 552a) essentially provides that citizens should have knowledge of and access to Federal records which may contain information about them in their individual capacities. The Privacy Act also establishes certain safeguards against misuse of this information by the Government. This part of the manual provides guidance to Coast Guard marine safety personnel in meeting the service's responsibilities under these laws with regard to records under Coast Guard control.

8–7–5. AVAILABILITY OF RECORDS TO THE PUBLIC

8–7–5A. GENERAL

The FOIA and its implementing Departmental regulations in 49 CFR 7 (Public Availability of Information) provide a more-or-less formalized way in which members of the public may make written requests for records under DOT control. Receipt of a written FOIA request triggers certain procedural requirements affecting the Coast Guard, including the legal requirement that a response to the request be made within 10 working days. Marine safety personnel are therefore encouraged to provide copies of records to the public in response to informal requests when no reason is apparent for nondisclosure and/or the kinds of records requested are those which have traditionally and routinely been disclosed by the Coast Guard. Personnel should only ask those persons making informal requests for Coast Guard records to file written FOIA requests when doubt exists about disclosure because of the potential application of one or more of the FOIA's exemptions.

It is the policy of the Commandant that all records of the service be made available to the public upon request subject only to one or more of the FOIA's nine exemptions. The exemptions should be narrowly construed and sparingly applied. Marine safety personnel responsible for maintaining records shall be thoroughly familiar with the regulations found in 49 CFR 7 and with the Coast Guard's FOIA procedures set forth in COMDTINST 5212.6 (series).

8–7–5B. COMMERCIAL INFORMATION

The most frequent problem encountered by marine safety personnel under the FOIA concerns records in Coast Guard files which contain business or proprietary information or trade secrets and which were submitted by commercial entities pursuant to regulations. Exemption 4 of the FOIA (5 U.S.C. 522(b)(4)) permits a Federal agency to withhold records from disclosure which contain trade secrets or commercial or financial information considered privileged and confidential by the person who submitted them. This exemption has been used on occasion by Coast Guard personnel to protect records in their custody but may only be imposed as a bar to disclosure when the following tests are met:

(1) The particular information must be of a type which would not be disclosed to the public by the company or person from whom it was obtained.

(2) It must be apparent that public disclosure would:

(a) Impair the Government's ability to obtain necessary commercial information in the future, or

(b) Cause substantial harm to the competitive position of the company or person supplying the information.

A request that information of this nature be held in confidence should be made by the company or

person at the time the information is submitted in order to alert officials who may subsequently handle FOIA requests for these records of the views of the submitter. Should no statement as to confidentiality have been made at the time any materials were originally given to the Coast Guard, an informal inquiry may be made of the submitter in order to aid in the processing of any subsequent FOIA request. This should be done whenever the requested information was submitted to the Coast Guard prior to the effective date of exemption 4 (19 Feb 1975). Ultimately, however, it is the responsibility of the Coast Guard to make an affirmative judgment whether or not records sought under the FOIA meet the standards for withholding under exemption 4. Any assertions of confidentiality made by submitters of material are only to be regarded as advisory in nature. It is also emphasized that the FOIA obliges the Coast Guard to furnish reasonably segregable portions of records, from which exempt material has been removed, in response to any request.

8–7–5C. MERCHANT SEAMEN'S RECORDS

Many FOIA requests have been received for Coast Guard records reflecting the home addresses of merchant seamen and their next of kin. To date, the Coast Guard has been successful in resisting these requests by utilizing a statutory exemption as well as the FOIA's exemption number 6 which may be used, in certain circumstances, to withhold records if release would amount to a clearly unwarranted invasion of an individual's personal privacy. 46 U.S.C. 643(f) mandates non-disclosure of certain merchant seamen's records maintained at Headquarters including those reflecting seamen's home addresses and the home addresses of their next of kin. All denials of this information in response to formal written FOIA requests are to be issued as outlined in section 8–7–5D. In addition, it is the general policy of the Commandant not to release information about a merchant seaman's next of kin, his home address, or any other strictly personal information in response to informal requests from members of the public unless it is abundantly clear that the information is sought solely for the purpose of conferring a benefit upon the seaman.

8–7–5D. DISCLOSURE AND DENIAL

Under current Coast Guard FOIA procedures, the authority to release records has been delegated to all commands. Merely because a requested record may fall within one or more of the FOIA's exemptions does not compel its nondisclosure. The exemptions under the FOIA are discretionary and generally are only to be utilized in the following situations:

(1) When there is a clearly identifiable and substantial Coast Guard interest to be protected by nondisclosure of a record within the scope of an exemption;

(2) When release of a record would amount to a clearly unwarranted invasion of an individual's personal privacy;

(3) When release is clearly prohibited by any statute;

(4) When the record sought has been properly classified pursuant to an Executive Order in the interest of national defense or foreign policy;

(5) As specifically limited by the FOIA's exemption 7 (5 U.S.C. 552(b)(7); 49 CFR 7.75) when the record is in an investigatory file compiled for the enforcement of laws or regulations; or

(6) When the requirements of exemption 4 (trade secrets, etc.) as described in 8–7–5B are met.

Denials of disclosure in response to requests made under the FOIA may only be issued by Headquarters office chiefs or district commanders. Should any denial of disclosure be contemplated by marine safety personnel when a FOIA request is received for records within their control, the cognizant district legal officer should be contacted immediately for coordination of the matter. In addition, a requester may appeal an initial FOIA denial of disclosure

to Commandant (G-A) within 60 working days of its receipt. The entire matter will then be reviewed by Headquarters staff personnel and a decision will be issued on the merits of the appeal.

8–7–10. THE PRIVACY ACT

Detailed procedures regarding the handling of Privacy Act (PA) requests are contained in COMDTINST 5212.11 (series). The act covers requests made by persons who want to see records about themselves which are maintained by the Coast Guard. The Privacy Act and various Coast Guard directives also set forth the way in which a person may request correction or amendment of a record as well as what action Coast Guard personnel must take in response to such a request. Department of Transportation PA regulations are found in 49 CFR 10.

The Privacy Act also requires that an individual give his written consent before any record about himself, contained in a PA system of records, can be disclosed to anyone. Systems of records are defined by the act as those record groupings from which information about individuals is retrieved by using their names or other identifying symbols or numbers assigned to them. Coast Guard PA record systems include the Merchant Vessel Casualty Reporting System, the Merchant Vessel Documentation System, and the Merchant Seamen's Records System. These are among approximately 60 systems listed annually by the Coast Guard in the Federal Register pursuant to the Privacy Act's requirements.

However, merely because a record is in one of these systems does not automatically bar its disclosure without the consent of the individual it concerns. The Privacy Act has 11 exceptions to the written consent rule. The most farreaching of these exceptions to the written consent rule permits release of a PA system record if its disclosure would be required by the FOIA. Therefore, when a request is received from a member of the public for access to a record in a PA system, and the request does not fall within any of the 10 other PA written consent rule exceptions or the person is not requesting access to records about himself, the matter should always be considered under the FOIA. If none of the FOIA's exemptions applies to the requested record, it must be released even if there is no written consent by the individual to whom it may pertain. With regard to the "privacy" aspect of these records, it should be kept in mind that the FOIA's exemption 6 provides safeguards for the personal privacy of individuals. Nonetheless, many records in PA systems fall far short of qualifying for the coverage of this or any other FOIA exemption and must be released upon request.

As noted above, there are 10 other limited circumstances not affected by FOIA considerations in which records from PA systems may be disclosed without the written consent of the individual concerned. These circumstances are outlined in 5 U.S.C. 552a(b) and are repeated in 49 CFR 10.33 and enclosure (6) to COMDTINST 5212.11. Certain record-keeping requirements are also outlined in these directives when disclosure is made under these circumstances. Enclosure (2) to COMDTINST 5211.4 gives examples of personal information about individuals maintained in Coast Guard records covered by the Privacy Act which is to be released in response to requests from the public.

8–7–15. FEES FOR INFORMATION SERVICES

Service fees shall be charged for duplication, data processing records, and photographic reproduction performed at public request, in accordance with provisions of 49 CFR 7. Such fees are charged for the actual cost of the work performed. Fees received for information services are administered in a separate account under the direction of the Secretary of Transportation, and may be used for ordinary expenses incidental to such work. Service fees are payable to the Treasury of the United States by check, bank draft, or postal money order, and may be paid in advance unless uncertainty exists as to the exact nature of the document requested. In such cases, the fee may be collected upon receipt of

service. If a document search is required, a search fee shall be charged, regardless of whether or not the search was successful.

Plate 8–7–15.1 provides a fee schedule for document service as provided for by 49 CFR 7.95.

8–7–20. EXEMPTIONS AND REDUCED FEES

8–7–20A. EXEMPTIONS

No fees shall be charged for correspondence related to a request for information or determinations upon that request. No fees shall be charged for documents furnished in response to requests from:

- A member or former member of the Coast Guard for copies of his service record, or employee or former employee for copies of his personnel record;
- A member of Congress for his official use;
- A State, territory, U.S. possession, county or municipal government, or agency thereof;
- A court, where request will serve as a substitute for the personal court appearance of a member or employee of the Coast Guard;
- A foreign government or agency thereof, or international organization; or
- News media representatives.

8–7–20B. REDUCED FEES

Reduced fees may be charged for information services if the Chief, Office of Public and International Affairs determines that reduction of service fees is in the public interest. Reasonable requests from schools, students of marine safety-related topics, and non-profit activities which promote marine safety are examples of this category. Commandant (G-A) should be consulted in this regard.

8–7–25. TRANSCRIPTS

Transcripts of hearings, Marine Board of Investigation testimony and reports, and the like are available for public inspection. The fee schedule in plate 8–7–15.1 shall be applied where transcripts are prepared commercially and contractual permission to reproduce them is granted. Where the reporting service reserves the sales privilege for transcript copies, requesters shall be directed to contact the reporting service directly.

8–7–30. ALTERNATE SOURCES

In many cases, such as reports of Marine Boards of Investigation, materials requested by the public are available from sources other than Coast Guard or DOT facilities. These include:

- Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
- National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22151.
- National Archives and Records Service, Government Services Agency, Washington, D.C. 20405.

Requesters shall be directed to these sources whenever possible.

PLATE 8-7-15.1

FEES FOR INFORMATION SERVICES

DOCUMENT SEARCH	$ 2.00
PHOTOCOPIES/SIMILAR COPIES OF DOCUMENTS (each page no larger than 11"x17")	
(a) First page	.25
(b) Each additional page	.05
TYPEWRITER COPIES OF DOCUMENTS, EACH PAGE	2.00
CERTIFIED COPIES OF DOCUMENTS	
(a) With DOT seal	3.00
(b) True copy, without seal	1.00
PHOTOGRAPHS	
(a)B/W, from negative	1.25
(b)B/W, from print	3.15
(c)Color, from negative	3.50
(d)Color, from print	6.25
DUPLICATE DATA TAPES* (each reel/fraction thereof)	36.00
MICROREPRODUCTION:	
(a)Microfilm copies, each 100' roll/fraction	3.75
(b)Microfiche copies, each 4"x6" sheet	.15
DATA-PROCESSED RECORD (each 1,000 lines/fraction thereof)	1.00
PREPRINTED MATERIALS (SHELF STOCK) ON COLOR STANDARD SIZES, EACH PAGE (excluding blanks)	.06

NOTE: The fee for any record not included above will be the cost of handling and producing. The fee for a search and copy of a document which obviously exceeds $2.00 will be determined in accordance with the Freedom of Information Act.

*The applicant must furnish the necessary blank tapes. They must be compatible for use in DOT's computer system, ½" wide and 2400' long, capable of recording data at a density of 556 or 800 characters per inch(unless otherwise specified, such tapes shall be recorded at 556 CPI density). DOT is not responsible for damaged tapes; however, replacement tapes furnished by the applicant will be produced at no additional cost.

MARINE SAFETY MANUAL

CHAPTER 13—PENALTY ASSESSMENTS AND CRIMINAL OFFENSES

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PART 13–1—GENERAL PENALTY PROCEDURES

13–1–1. INTRODUCTION

This part of the manual contains policy and guidance for district commanders and designated hearing officers with respect to the processing and disposition of violation cases. The hearing officer, when designated by the district commander, shall process all violation reports received by him in accordance with the regulations in 33 CFR 1.07. In order to promote uniformity in penalty actions among districts, the guidelines provided in this part of the manual shall generally be observed by district hearing officers. In determining the appropriate sanctions in cases in which it has been determined that the party has committed a violation, consideration may be given to the economic costs incurred by the violator as a result of Coast Guard actions which may have delayed a vessel or other operation for corrective action.

Repeated violations of similar severity or requirements involving the same responsible party should generally be considered by the hearing officer as a factor which increases the gravity of the violation. Cases should only be dismissed under one of the following circumstances:

(a) The evidence does not establish that a violation occurred.

(b) There is insufficient evidence before the hearing officer to establish that the party charged has committed the alleged offense.

(c) Penalty action is dropped against one party and initiated against another.

(d) There is an extraordinary situation where an injustice would result if penalty action were taken.

The sequence of events followed by the hearing officer shall proceed in the following order as specified in 33 CFR 1.07:

(a) Preliminary examination of the file and, if necessary, return to the district commander with a written statement of reasons for the return (such as a need for additional investigation).

(b) The issuance of a Letter of Notification of the violation(s) to the apparently responsible party requiring a response within 30 days. (See the recommended Letters of Notification on plates 13–1–1.1, 13–1–1.2, and 13–1–1.3.) A letter shall indicate the amount of the penalty that appears to be appropriate based on the material available to the hearing officer as well as the required elements listed in 33 CFR 1.07–20(b).

(c) Resolution of preliminary matters, such as completing documents, dealing with requests for delays, etc.

(d) Conducting a hearing, if one is requested or desired.

(e) The evaluation of all evidence, including oral or written comments presented to the hearing officer.

(f) The issuance of a decision which may include a Letter of Penalty Assessment (as described on plates 13–1–1.4 and 13–1–1.5), a Letter or Warning of (as described on plate 13–1–1.6), or dismissal of the case.

(g) Handling of all appeal documents and conducting any further proceedings which may be required.

The hearing officer shall sign all the correspondence in the case and shall insure that copies are forwarded to the appropriate staff element(s) at Headquarters, including a copy for the Marine Safety Information System (MSIS).

(A recommended Letter of Penalty Collection is contained on plate 13–1–1.7.)

13–1–5. FORWARDING AND REVIEWING CASES

Information concerning violations of navigation and vessel inspection laws and regulations, the Motorboat Act of 1940, the Federal Boating Acts, the Federal Water Pollution Control Act, the Oil Pollu-

tion Acts, the Refuse Act of 1899, etc. may be received from sources other than reports of Coast Guard personnel. For example, local law enforcement agencies such as harbor police, other Federal agencies, or private citizens may report by telephone or in writing alleged recklessness or negligent operation of pleasure craft. It is the district commander's prerogative to establish policy guidelines as needed for his district to determine the scope of the investigation of these alleged violations. After the investigation of the incident, the entire violation report (Forms CG-2636, CG-3639, and all other related information) shall be forwarded to the program manager in the district in which the violation is alleged to have occurred. In the event an agency other than the Coast Guard conducts the investigation, its investigative report shall be forwarded to the district program manager in any form normally used. Upon receipt of the investigative report, the program manager shall carefully scrutinize the contents to determine if there is sufficient evidence to establish a *prima facie* case. This means that the file must contain proof of all elements of the violation, including jurisdiction. If the program manager determines that sufficient evidence does exist he may refer the case to the district hearing officer for disposition. The district commander (d, dcs, m, or b), acting under delegated authority and within the guidance provided in this manual, may close any violation case at any stage of the proceedings prior to the forwarding of the case to the hearing officer or the U.S. attorney. The district commander shall insure that each originating unit is advised of the disposition of all cases forwarded to him by that unit and the reasons for disposition, whenever possible.

13–1–5A. CASE FILES

When the district commander receives a Report of Violation, he shall establish and maintain a case file. A "case" can be comprised of one or more violations detected and reported at the same time and charged to one person or one vessel or one facility's operator, as appropriate. A "case" may also be comprised of several violations committed by a person or vessel occurring over a period of time and revealed by investigation, the results of which were reported to the action authority. A "case number" shall be assigned to each violation report. "Penalty action" is deemed to be initiated when a Letter of Notification is sent to the alleged offender by the hearing officer. When the offender is given a Letter of Warning, this constitutes a reportable action since a violation must have been established before such a letter is issued. Case numbers should also be assigned to violation reports which are referred to the U.S. attorney for possible criminal prosecution. The case number shall be referred to in all subsequent correspondence pertaining to a case. Reports of Violation which are closed without penalty action may be filed under a general file number for administrative purposes (e.g., when preliminary review by the district commander or hearing officer discloses that no violation occurred or that the report was issued in error). The case file should include a recommended action and a record of any prior violations by the same person or entity.

The case number shall consist of a district identification number, a unit identification number, a calendar year identifier, and a serial number. The case number should be developed as a unit case number; however, individual instructions may be promulgated by the district commander. Whenever citations are made against more than one person or firm as the result of a single report of violation, the case number may be applied and a letter suffix used to identify the individual offenders.

13–1–5B. CASE RECORDS

To afford a ready means of reference, a file of cases for which penalty action has been taken shall be maintained by each district commander. This file shall list penalty cases by number and by the name of the violator(s). A case history shall be maintained with entries relating to steps taken (i.e., statement of party, memorandum of personal interview, assessment of penalty, appeal to the Commandant, disposition of appeal, etc.). An appropriate name-related system should be developed to cross-reference specific cases in the number file. In order to expedite the

preparation of statistical reports, it is suggested that files of the closed cases be maintained separately from those that are pending.

13–1–10. HEARING OFFICERS

Each district commander shall delegate one or more of the officers or employees on his staff the authority to act as hearing officer. The hearing officer is considered to be a member of the staff of the district chief of staff rather than a member of a district division. The district hearing officer reports directly to the district chief of staff in the performance of hearing officer duties and shall use the staff symbol (dj). The hearing officer may not have any prior connection with a case before him nor may he have any other responsibility, direct or supervisory, for the investigation of cases referred to him. If a case is referred to a hearing officer to which he has had prior connection (as other than a hearing officer), or for the investigation of which he was responsible, he shall refer the case to another hearing officer or return it to the program manager with a written explanation of the reasons therefor, and the program manager may then refer the case to another hearing officer.

Once a case is referred to a hearing officer, the hearing officer is solely responsible for the decision in the case. The hearing officer shall exercise independent judgment in deciding each case on the basis of the evidence before him and the applicable laws, regulations, and agency interpretations.

Hearing officers are in a unique position in that they are in the public eye and their work is frequently subject to judicial review. Therefore, hearing officers should be carefully selected on the basis of possessing superior personal and professional traits. Hearing officers must have maturity of judgment and experience and must be able to display patience and judicial temperament even in difficult situations. While there is no requirement that a hearing officer be of a particular rank, under normal circumstances, the hearing officer should be a Lieutenant Commander or above. Hearing officers may be assigned by the district commander either on a primary or collateral basis. If a collateral assignment, then the primary assignment shall be in a district division different from that responsible for the cases being heard. Thus, as an example, a hearing officer from a district (m) division or one of its branches may not hear cases involving mep, mvs, or mps violation cases.

13–1–15. HEARING OFFICER'S INITIATION OF CIVIL PENALTY PROCEEDINGS

When a case is received, the hearing officer shall make a preliminary examination of the material submitted. If, on the basis of this examination, the hearing officer determines that there is insufficient evidence to proceed, or that there is any other reason which would make penalty action inappropriate, he shall return the case to the program manager with a written statement of the reason. The program manager may then close the case or cause a further investigation of the alleged violation to be made with a view toward resubmittal of the case to the hearing officer. In any event, the hearing officer's statement of reasons for returning a case should normally be provided to the investigation officer as a positive feedback and training mechanism. Whenever the right to invoke a penalty is in doubt, or where a test case is involved, the outcome of which will affect a number of persons or which will necessitate a change of practice by a group of people, the case shall be referred to Commandant (G-L) for review. If, on the basis of the preliminary examination of the case file, the hearing officer determines that a violation appears to have been committed, action shall be commenced by the issuance of a Letter of Notification. (See the sample Letters of Notification on plates 13–1–1.1, 13–1–1.2, and 13–1–1.3). When the Letter of Notification is addressed to someone other than the vessel/facility's owner, a copy should be sent to the owner. As provided for in 33 CFR 1.07–25, a period of not less than 30 days, or such additional time as the district hearing officer considers appropriate, shall be allowed for reply to notices of reported violation. In order to insure that corre-

spondence has reached the party(ies) concerned, it is advisable that Letters of Notification and decisions of the hearing officer be forwarded by a method which obtains positive acknowledgement of receipt from the addressee. In appropriate cases, or when local conditions make such practices desirable, the district hearing officer may initially grant a period greater than 30 days for reply, payment, or appeal.

In some instances, owners of commercial vessels may be at a disadvantage in preparing a response to a violation report within the time allowed by a letter. For example, the violation may have occurred at some distant place and the owner may require additional time in order to investigate the circumstances which gave rise to the violation. In such situations, the hearing officer may initially grant a period greater than 30 days in order to avoid unnecessary correspondence. In any penalty case, and at any stage of the proceedings, the violator may request any reasonable extension of time and it is within the discretion of the hearing officer whether or not to grant the request.

13–1–20. GENERAL NOTIFICATION PROCEDURES

The Letter of Notification is the vehicle for providing an alleged violator with notice of the institution of administrative civil penalty proceedings and of the opportunity for certain procedural rights. It is the piece of correspondence used by the Coast Guard to institute administrative civil penalty proceedings. This letter provides notice to the alleged violator that the proceedings are beginning and that there exists the opportunity for exercising certain rights in connection with the penalty process. At a minimum, the Letter must advise the alleged violator of all of the items listed in 33 CFR 1.07–20.

If, at any time during the proceedings, it becomes apparent that the addition of another party is necessary or desirable, the hearing officer may bring another party into the action by providing the new party with a notice as described above.

It should be noted that any dollar figure mentioned in the Letter of Notification *is not* and *should not* be described as a "penalty," an "assessment," or a "preliminary penalty." A penalty cannot be assessed until after the alleged violator has been provided the opportunity to present evidence to support his side of the incident. The amount mentioned in 33 CFR 1.07–20(b)(4) is merely an amount which appears to be appropriate based on the material then available to the hearing officer. It should only be mentioned in that context.

13–1–25. PRELIMINARY MATTERS

The procedures for conducting civil penalty proceedings and assessing penalties are designed to be simple and flexible. However, it is necessary that certain rules and guidelines be observed in the interest of having an orderly framework and a record of what was done in the administrative process. While the hearing officer may grant delays and waive certain procedural requirements, written records of these actions must be maintained as part of the record to document what has transpired. Regulations concerning preliminary matters are contained in 33 CFR 1.07–25.

13–1–30. DISCLOSURE OF EVIDENCE

The alleged violator may, upon request, receive a free copy of all the written evidence in the case file, *except* material that would disclose or lead to the disclosure of the identity of a confidential informant. Other evidence or material, such as blueprints, sound or video tapes, oil samples, and photographs may be examined in the hearing officer's office. The hearing officer may provide for examination or testing of evidence at other locations if there are adequate safeguards to prevent loss or tampering. (See 33 CFR 1.07–30.)

The hearing officer shall document the fact of whether a copy of evidence was provided to the alleged violator. If certain material is requested, but not provided, an explanation shall be placed in the

record of the reasons for not providing a copy of, or access to, the material.

In addition to withholding evidence which would disclose or lead to the disclosure of the identity of a confidential source, certain other material may, and in some cases must, be withheld from the public and the alleged violator. Where withholding is required by law, the investigating officer, program manager, or other person who is aware of the fact that the material is protected, should conspicuously mark the document or item to prevent its inadvertent release. Any other person may make a request that certain material be treated as confidential on the basis that the information contained is:

(a) Confidential financial information, trade secrets, or other material exempt from disclosure by the Freedom of Information Act (5 U.S.C. 552).
(b) Required to be held in confidence by 18 U.S.C. 1905.
(c) Otherwise exempt by law from disclosure.

The person desiring confidential treatment must submit the request to the hearing officer in writing and state the reasons justifying nondisclosure. Failure to make a timely request may result in a document being considered as nonconfidential and subject to release.

Confidential material shall not be considered by the hearing officer in reaching a decision unless:

(a) It has been furnished by a party.
(b) It has been furnished pursuant to a subpoena.

Any questions concerning releasability of information may be referred to the district legal officer for advice.

13–1–35. COUNSEL

A party has the right to be represented at all stages of the proceeding by counsel. After receiving notification that a party is represented by counsel, the hearing officer directs all further communications to that counsel until and unless notice is later given that the counsel no longer represents the party. (See 33 CFR 1.07–40.)

13–1–40. LOCATION OF HEARINGS

The hearing is normally held at the office of the hearing officer. The party may request that a case be transferred to another hearing officer or that the hearing be held at a location other than the office of the hearing officer. The request must be in writing and must state the reasons why the requested action is necessary or desirable. Action on the request is at the discretion of the hearing officer. (See 33 CFR 1.07–45.)

13–1–45. OPEN HEARINGS

Coast Guard civil penalty hearings are open to the public to the extent that space is reasonably available to accommodate an audience. The role of the public at these hearings is limited to observing the proceedings and there shall be no intervention by members of the public or by persons other than the party against whom the penalty proceedings are being taken. However, the hearing officer may allow the participation of persons other than the party as provided for in 33 CFR 1.07–50 through 1.07–55. If, during the course of the proceedings, confidential trade secrets, financial data, or other similar material is being presented, it shall be within the discretion of the hearing officer to close that portion of the hearing to the public.

Records and portions of records of civil penalty proceedings may be released to the public unless protected from disclosure by the Freedom of Information Act or other provisions of law.

13–1–50. WITNESSES

See 33 CFR 1.07–50.

13–1–55. HEARING PROCEDURES

After the hearing officer has advised the party of the charges and disposed of any preliminary issues, the material in the case file pertinent to the issues to be determined by the hearing officer is presented. It is not necessary that there be a program representative at every hearing; however, if necessary or desirable, this material may be presented by a representative designated by the program manager.

After introduction of the investigative case file, the party may offer any facts, statements, explanations, documents, sworn or unsworn testimony, or other exculpatory items which bear on appropriate issues, or which may be relevant to the size of an appropriate penalty. The hearing officer may require the authentication of any written exhibit or statement. This means that when a written statement or an exhibit of significance or one which is of questionable authenticity is submitted, the hearing officer may require additional proof to be offered as to the authenticity of the exhibit or document.

At the close of the party's presentation of evidence, the hearing officer may allow the introduction of rebuttal evidence. The hearing officer may allow the party to respond to any such evidence submitted. See 33 CFR 1.07–55(c)-(f).

13–1–60. RECORDS

See 33 CFR 1.07–60.

13–1–65. HEARING OFFICER'S DECISIONS

After conclusion of the adminstrative proceedings, the hearing officer may dismiss the case, assess a monetary civil penalty, or issue a Letter of Warning. (See plate 13–1–1.6.) In all cases, the hearing officer shall issue a written decision and shall mail or deliver it to the party. The decision should state with reasonable clarity the basis for the decision. See 33 CFR 1.07–65.

13–1–70. RIGHT TO APPEAL

See 33 CFR 1.07–70.

13–1–75. ACTION ON APPEALS

Upon receipt, the hearing officer shall provide a copy of the appeal and any supporting brief to the district commander. Any comments which the district commander desires to submit must be received by the hearing officer within 20 days. The hearing officer shall include the district commander's comments in the record and furnish a copy to the party. Upon receiving the district commander's comments, or not later than 20 days after receipt of the appeal if no comments are submitted by the district commander, the hearing officer shall forward all materials in the case to Commandant (G-LMI).

The Commandant will issue a written decision in each case and furnish copies to the party, the district commander, and the hearing officer. The Commandant may affirm, reverse, or modify the decision or remand the case for new or additional proceedings. In the absence of a remand, the decision of the Commandant on appeal shall be final. In addition to the actions which may be taken by the Commandant on appeal, the Commandant may also remit, mitigate, or suspend the assessment in whole or in part. Upon the taking of remission, mitigation, or suspension action, the Commandant will inform the party of the action and any conditions placed on the action. If a penalty, which on appeal has been affirmed in whole or in part, is not paid within the specified time limits, action should be taken to institute appropriate action under the Federal Claims Collection Act and the regulations issued thereunder.

13–1–80. REOPENING OF HEARINGS

See 33 CFR 1.07–80.

13–1–85. COMPROMISE OF PENALTIES

The authority of the Secretary to "compromise" penalties under section 311(b)(6) of the FWPCA was delegated to the Commandant by 49 CFR 1.46(1). The final action that may be taken by a hearing officer regarding the amount of any penalty is the final assessment arrived at by that officer. Thereafter, the amount of the penalty may be modified only by:

(a) The Commandant, if the penalty has been appealed; or

(b) An appropriate officer designated by 33 CFR part 25 to compromise the payment of debts owed to the United States, if collection procedures are necessary.

13–1–90. COLLECTION, RECEIPT, AND CUSTODY OF PENALTIES

13–1–90A. GENERAL

Payments of assessed penalties, either in full or as mitigated, shall be delivered to the appropriate Coast Guard collection clerk with the data necessary for deposit of the collection as prescribed in the *Comptroller Manual* (CG-264). This data shall include the source and purpose of the collection, dated letter of assessment, and case file number. Accounting offices shall furnish the district commander (dcs) a monthly memorandum showing all collections deposited for penalties during the preceding month. The memorandum shall include the name of the remitter, the case file number, the amount deposited, and the certificate of deposit number. The chief of the district division having cognizance of the case shall make appropriate notations in the case file to the effect that collection was received.

13–1–90B. PAYMENTS OF ASSESSMENTS IN INSTALLMENTS

It is the opinion of the Chief Counsel of the Coast Guard that the payments of penalty assessments in installments are not contrary to law. However, this method of collection may be accepted by the district commander only in those instances when, in his opinion, the best interests of the Government are served thereby. Agreements by violators to make installment payments must be approved by the district legal officer in advance of payments. Whenever the violator becomes delinquent in payment, the case may be referred to the U.S. attorney for collection.

13–1–90C. REFERRING UNPAID CIVIL PENALTY ASSESSMENTS TO THE U.S. ATTORNEY

In those instances where the offender has not made payment of the amount due within the time stipulated, and if the offender has not made acceptable arrangements for payment, a demand shall be made in accordance with the Federal claims collection regulations. A copy of the record shall be referred to the U.S. attorney by the district commander. If payment is not received after the requisite demand, the matter should be referred for collection action and a brief letter shall be addressed to the violator informing him that the case has been referred to the U.S. attorney for collection. The referral letter to the U.S. attorney shall include the nature of the violation and the date and place of the occurrence (e.g., the location of the offending vessel, a geographic location, the nearest town, etc.).

13–1–90D. PAYMENTS RECEIVED SUBSEQUENT TO THE TIME PERIOD STIPULATED

When the offender makes payment of the amount due subsequent to the time period stipulated and before referral of the case to the U.S. attorney, the district commander shall accept payment of the assessment and close the case. However, in those instances where the offender pays the penalty assessed after the case has been referred to the U.S. attorney for collection, the money shall be retained and the U.S. attorney shall be notified. When penalty cases have been forwarded to the U.S. attorney, the disposition of those cases is the responsibility of

the U.S. attorney, although all reasonably available assistance should be provided to U.S. attorneys in their collection efforts.

13–1–90E. COLLECTION FOLLOW THROUGHS

The district commander shall keep a current check on collection of assessed penalties, and shall refer overdue accounts to the appropriate U.S. attorney. After the case has been referred to the U.S. attorney, the district commander shall make a check, at least semi-annually, on the progress of the case and shall assist in every way possible in the collection effort. Subject to the availability of resources, the district commander shall assist the U.S. attorney in locating violators when called upon to do so, unless previous attempts by Coast Guard personnel to locate a particular violator have proven unsuccessful. The circumstances of the particular case should determine the action to be taken.

13–1–90F. REFUND OF CIVIL PENALTIES

Certain civil penalties which have been improperly or excessively imposed and collected are subject to refund under authority of 46 U.S.C. 8, when application for refund is made within one year of the date of payment. The applicant for such refund shall complete Form CG-1986, Claim for Navigation Fine Exacted in Excess or in Error, in accordance with the instructions thereon. The application shall be made to the district commander, who shall transmit the form to Commandant (G-L), together with the original and duplicate copy of all papers which deal with the alleged improper or excessive payment. Since this file will be forwarded to the Comptroller General in the Office of the Comptroller of the Currency, U.S. Department of the Treasury, duplicate copies of all papers desired to be kept in the case folder should be made.

13–1–95. REPORTS OF VIOLATIONS INVOLVING BOTH CIVIL AND CRIMINAL PENALTIES

13–1–95A. GENERAL

Certain violations of statutes administered and enforced by the Coast Guard contain both civil and criminal penalties, while others contain only criminal penalties (i.e., fine and imprisonment). When violations containing both civil and criminal penalties are reported to the district commander, he shall weigh the facts submitted and determine whether or not the imposition of a criminal penalty is warranted. If it appears that the evidence is sufficient and that a violation is of such gravity that a criminal penalty is indicated, the case shall be referred to the U.S. attorney for action.

A dual penalty example would be 46 U.S.C. 1484, which provides for the imposition of an administrative penalty *and* for criminal prosecution for reckless or negligent operation of vessels that endanger the life, limb, or property of any person. These types of cases vary in gravity. Accordingly, some are appropriately referred to the Department of Justice for criminal prosecution, while others are better handled by civil penalty procedures. In any case, care must be exercised in determining the appropriate party against whom to proceed. Some statutes provide for penalties against the owner, operator, and person in charge. Some statutes only apply sanctions against one party or another, while other sanctions apply against the vessel itself. In certain circumstances, if the civil penalty is not paid, the owner may be reached indirectly by the institution of an *in rem* action against the vessel by the U.S. attorney. Therefore, in those *in rem* liability cases, when the offender is a person other than the owner, a copy of the notice of violation shall be sent to the owner.

The district commander shall take appropriate action on all reports of such dual penalty violations in accordance with the following procedures:

(1) All reckless and negligent operation cases, whether involving death or serious injury or not, shall be carefully evaluated to determine whether the facts, circumstances, and documentary evidence available in the case warrant referral to the U.S. attorney for criminal prosecution.

(2) Flagrant cases or cases involving repeated offenses may, at the discretion of the district commander, be referred to the U.S. attorney for criminal prosecution if the facts warrant such action.

(3) When the cases described in (1) and (2) above are referred to the U.S. attorney for prosecution, and prosecution is declined, the district commander may, at his discretion, determine whether to refer the case to a hearing officer for institution of administrative civil penalty proceedings.

Examples of statutes with criminal penalties are 14 U.S.C. 84 (Interference with Aids to Navigation), 46 U S.C. 542a (Penalty for Demanding or Receiving Remuneration For Supplying Seaman For Merchant Vessels), and 50 U.S.C. 191–2 (Magnuson Act).

13–1–95B. CASES REFERRED TO THE U.S. ATTORNEY FOR ACTION

Each case which is referred to the U.S. attorney shall include the record of any investigation conducted, together with statements of witnesses. In addition, a copy of the referral letter shall be sent to Commandant (G-LCL).

When an alleged violation may subject a violator to either a criminal or civil penalty, the district commander shall notify the owner of the vessel and the individual who has allegedly committed the violation and shall cite the statute(s) which the evidence indicates has been violated. Also, the district commander shall state that no action will be taken to institute administrative civil penalty proceedings for the *same offense* until a determination has been made by the U.S. attorney whether to institute criminal proceedings. (In this regard, it should be noted that discharges of oil or hazardous substances in quantities which may be harmful (see 33 U.S.C. 1321(b)(3)), and the failure to immediately report such discharges (see 33 U.S.C. 1321(b)(5)) are separate offenses. The interested parties shall be further advised that, regardless of the outcome of any criminal proceedings instituted, they still may be subject to the civil penalties set forth in the statutes apparently violated.

All cases in which there is evidence found of violation of Coast Guard-administered laws and regulations that carry criminal penalties shall be referred directly to the appropriate U.S. attorney, *except* that the approval of the Commandant is required in the following cases *before* referral to the U.S. attorney:

(1) Cases arising from marine casualties or motorboat accidents resulting in death.
(2) Cases developed by marine boards of investigation.
(3) Cases involving violations of port security regulations issued under the Magnuson Act (including 33 CFR 6 and 122 through 125).

When doubtful or unusual cases raise questions as to the propriety of referral, the district commander shall request a decision from Commandant (G-L) and hold the referral in abeyance until advice is received. Cases of potentially broad interest to or which impact upon the Coast Guard, for example, from a policy or public relations standpoint, should be specially noted so that they may be given appropriate attention.

Whenever the district commander is of the opinion that the interest of the United States would be prejudiced by the delay incident to the referral of any violation case to the Commandant, he may refer the case directly to the U.S. attorney. However, before doing so, he shall first inform Commandant (G-LCL) of his contemplated action, by telephone if possible, and the reasons therefor.

When the district commander refers a violation case involving possible criminal prosecution to either the

U.S. attorney or to Commandant (G-LCL), the case shall be transmitted with a letter setting forth the relevant facts and considerations that would be helpful to the U.S. attorney or to the Commandant in reaching a decision with respect to prosecution. The district commander shall identify the law(s) or regulation(s) which was violated and shall make specific recommendations concerning the proceedings to be instituted. The transmittal letter should particularly include information as to local conditions which may have a bearing on the violation, such as the implications of the particular case with respect to local compliance with law violated, previous record of the offender, general state of compliance in the locality, etc.

Whenever, as a result of investigation or other proceeding under 46 U.S.C. 239 as amended (R.S. 4450), evidence of violation of a criminal statute on the part of any licensed officer, certificated person, or any other person is found, such evidence can be the basis for criminal prosecution. The procedures with respect to cases developed by marine boards shall also be followed.

13–1–100. RELATIONSHIP WITH THE NEWS MEDIA

It is the Commandant's policy that information concerning administrative penalty cases may be made available for release before, or after, the district commander determines that a violation has or has not been committed, unless the information is required by law or regulation to be treated as confidential or privileged. Whether or not the penalty is assessed, subsequently mitigated, or remitted is immaterial. Early disclosure of information concerning alleged or apparent violations of laws and regulations administered by the Coast Guard is an integral part of the Coast Guard's law enforcement program. It is also a highly effective tool to be employed in the prevention of boating accidents. To be effective, information must be released while it is still newsworthy.

In releasing information on penalty cases, it should be emphasized to inquirers that this action is by no means final, and that the subsequent penalty action, if any, may be later appealed to the Commandant. The *Public Affairs Manual* (CG-247), part 8–5 (Public Affairs) of this manual, and other appropriate Commandant or district commander guidance should be referred to with regard to this subject. See also 33 CFR 1.10 and 46 CFR 4.13 for procedures concerning the release of official records and documents.

PLATE 13-1-1.1

Letter of Notification (not for Section 311, FWPCA)

Case No. _____

Re: Name of Vessel or Facility:

Date of Alleged Violation:

Gentlemen:

A report has been received alleging that the following violation(s) were discovered at (location), on (date):

Federal Law or Regulation	Nature of Violation	Maximum Penalty for Each Violation

This letter is to notify you of the initiation of civil penalty proceedings and to offer you the opportunity for a hearing on the matter. No penalty may be assessed until you have been given an opportunity for a hearing on the alleged violations, and it has been determined that you are liable for the violation. If you wish to have a hearing, you must submit a written request to me within 30 days, specifying the issues which are to be addressed. These issues may relate to whether liability for some penalty exists and, if so, the appropriate size of any penalty which might be assessed.

If you request a hearing, one will be conducted in accordance with 33 CFR Subpart 1.07, as amended-43 F.R. 54186 (Nov. 20, 1978), to which I direct your attention. If you wish, you may obtain a free copy of all the written material in the case file, or you may examine the file in my office at or prior to the time of the hearing. At the hearing, you may submit any relevant materials or testimony you wish to have considered. In your request for a hearing, please specify a convenient time and date for the hearing, which will be held in my office. I will confirm the scheduling with you by telephone or in writing at a later date. If you do not wish to have a hearing, you may submit written materials and evidence to me in lieu of a hearing. If you do this, I request that you accompany the materials with a description of the issues in dispute and an explanation of the relevance of the materials to the issues. After I have had a chance to consider the information you have submitted, along with the evidence which has already been submitted (which is available for your inspection), I will make a decision and advise you of it in writing.

PLATE 13-1-1.1(cont.)

Your attention is directed to 33 CFR 1.07-35 concerning confidential information. If there is information relating to trade secrets, financial or commercial information, or similar information which is exempt from public disclosure, that you wish to submit and have treated as confidential, please point this out, with the basis for the exemption, at the time the material is supplied so that I may handle it appropriately.

You have the right to be represented at all stages of the proceeding by counsel. If I receive notification that you are represented by counsel, I will thereafter direct all communications concerning the case to that counsel.

I have not yet made any penalty assessment in this case, and I will not do so until you have had the opportunity to present your side of the case. To assist you in evaluating my view of this case and in planning your further actions, 33 CFR 1.07-20 requires that I advise you of the amount of penalty which appears to be appropriate, on the basis of the information presently before me. In this case, that amount is _____. I wish to emphasize that this is not a penalty assessment, but rather advice provided for your assistance. If you do not wish to have a hearing or to submit material for my consideration, you may pay that amount and the case will be closed. Your remittance, payable to "U.S. Coast Guard", should be submitted with reference to this letter and marked for "Collection Clerk." Similarly, if I do not receive a response from you by (date), then I will consider that you have waived your right to have a hearing or submit information, and I will make a decision in the case based on the materials before me at that time.

If you have any questions concerning this matter, please call me or my assistant, (name), at (telephone number).

Sincerely,

_____
Hearing Officer

PLATE 13-1-1.2

Letter of Notification (FWPCA-Spill case)

Case No._____

Re: Name of Vessel or Facility:

Date of Alleged Violation:

Gentlemen/Dear _____:

I have received a report alleging that a violation of Section 311(b)(3) of the Federal Water Pollution Control Act, 33 USC 1321(b)(3), has occurred at (location/vessel) on (date). If these allegations are proven, Section 311(b)(6) of the Act provides that you shall be assessed a civil penalty in an amount not to exceed $5,000.

This letter is to notify you of the initiation of civil penalty proceedings and to offer you the opportunity for a hearing on the matter. No penalty may be assessed until you have been given an opportunity for a hearing on the alleged violations, and it has been determined that you are liable for the violation. If you wish to have a hearing, you must submit a written request to me within 30 days, specifying the issues which are to be addressed. These issues may relate to whether liability for some penalty exists and, if so, the appropriate size of any penalty which might be assessed.

If you request a hearing, one will be conducted in accordance with 33 CFR Subpart 1.07, as amended-43 F.R. 54186 (Nov. 20, 1978), to which I direct your attention. If you wish, you may obtain a free copy of all the written material in the case file, or you may examine the file in my office at or prior to the time of the hearing. At the hearing, you may submit any relevant materials or testimony you wish to have considered. In your request for a hearing, please specify a convenient time and date for the hearing, which will be held in my office. I will confirm the scheduling with you by telephone or in writing at a later date. If you do not wish to have a hearing, you may submit written materials and evidence to me in lieu of a hearing. If you do this, I request that you accompany the materials with a description of the issues in dispute and an explanation of the relevance of the materials to the issues. After I have had a chance to consider the information you have submitted, along with the evidence which has already been submitted (which is available for your inspection), I will make a decision and advise you of it in writing.

PLATE 13-1-1.2(cont.)

You should be aware that, under the terms of the Federal Water Pollution Control Act, fault or culpability is not a factor in determining whether there has been a violation. In determining the size of any civil penalty which may be assessed, I am required to consider: (1) the appropriateness of the penalty to the size of the business of the owner or operator; (2) the effect on the owner's or operator's ability to remain in business; and (3) the gravity of the violation. In presenting your case at a hearing, or in submitting information in lieu of a hearing, you may submit information relevant to these points. In this regard, you may submit information on the size of your business and the effect a civil penalty of $(preliminary amount) would have on your ability to continue in business. If you do not submit information on the size of your business and the effect of the penalty, I will be unable to consider these factors and will proceed on the basis that you have waived consideration of them.

Your attention is directed to 33 CFR 1.07-35 concerning confidential information. If there is information relating to trade secrets, financial or commercial information, or similar information which is exempt from public disclosure, that you wish to submit and have treated as confidential, please point this out, with the basis for the exemption, at the time the material is supplied so that I may handle it appropriately.

You have the right to be represented at all stages of the proceeding by counsel. If I receive notification that you are represented by counsel, I will thereafter direct all communications concerning the case to that counsel.

I have not yet made any penalty assessment in this case, and I will not do so until you have had the opportunity to present your side of the case. To assist you in evaluating my view of this case and in planning your further actions, 33 CFR 1.07-20 requires that I advise you of the amount of penalty which appears to be appropriate on the basis of the information presently before me. In this case, that amount is _____.

2

PLATE 13-1-1.2(cont.)

I wish to emphasize that this is not a penalty assessment, but rather advice provided for your assistance. If you do not wish to have a hearing or to submit material for my consideration, you may pay that amount and the case will be closed. Your remittance, payable to "U.S. Coast Guard", should be submitted with reference to this letter and marked for "Collection Clerk." Similarly, if I do not receive a response from you by (date), then I will consider that you have waived your right to have a hearing or submit information, and I will make a decision in the case based on the materials before me at that time.

If you have any questions concerning this matter, please call me or my assistant, (name), at (telephone number).

Sincerely,

_____
Hearing Officer

320-768 0 - 80 - 5

PLATE 13-1-1.3

Letter of Notification (FWPCA Pollution Prevention Regulation Case)

Case No._____

Re: Name of Vessel or Facility:

Date of Alleged Violation:

Gentlemen/Dear _____:

A report has been received alleging that the following violation(s) were discovered at (location), on (date):

Federal Law or Regulation	Nature of Violation	Maximum Penalty for Each Violation

This letter is to notify you of the initiation of civil penalty proceedings, and to offer you the opportunity for a hearing on the matter. No penalty may be assessed until you have been given an opportunity for a hearing on the alleged violations, and it has been determined that you are liable for the violation. If you wish to have a hearing, you must submit a written request to me within 30 days, specifying the issues which are to be addressed. These issues may relate to whether liability for some penalty exists and, if so, the appropriate size of any penalty which might be assessed.

If you request a hearing, one will be conducted in accordance with 33 CFR Subpart 1.07, as amended-43 F.R. 54186 (Nov. 20, 1978), to which I direct your attention. If you wish, you may obtain a free copy of all the written material in the case file, or you may examine the file in my office at or prior to the time of the hearing. At the hearing, you may submit any relevant materials or testimony you wish to have considered. In your request for a hearing, please specify a convenient time and date for the hearing, which will be held in my office. I will confirm the scheduling with you by telephone or in writing at a later date. If you do not wish to have a hearing, you may submit written materials and evidence to me in lieu of a hearing. If you do this, I request that you accompany the materials with a description of the issues in dispute and an explanation of the relevance of the materials to the issues. After I have had a chance to consider the information you have submitted, along with the evidence which has already been submitted (which is available for your inspection), I will make a decision and advise you of it in writing.

PLATE 13-1-1.3(cont.)

You should be aware that the Act specifically provides that the following factors are to be considered in determining the appropriate penalty size: (1) the gravity of the violation; and (2) demonstrated good faith in attempting to achieve rapid compliance after notification of violation. You may wish to particularly address yourself to the latter point, so that this matter may be considered should you be found liable for a penalty. Failure to submit evidence on this point may be viewed as a waiver of the consideration of this factor in your favor.

Your attention is directed to 33 CFR 1.07-35 concerning confidential information. If there is information relating to trade secrets, financial or commercial information, or similar information which is exempt from public disclosure, that you wish to submit and have treated as confidential, please point this out, with the basis for the exemption, at the time the material is supplied so that I may handle it appropriately.

You have the right to be represented at all stages of the proceeding by counsel. If I receive notification that you are represented by counsel, I will thereafter direct all communications concerning the case to that counsel.

I have not yet made any penalty assessment in this case, and I will not do so until you have had the opportunity to present your side of the case. To assist you in evaluating my view of this case and in planning your further actions, 33 CFR 1.07-20 requires that I advise you of the amount of penalty which appears to be appropriate on the basis of the information presently before me. In this case, that amount is _____. I wish to emphasize that this is not a penalty assessment, but rather advice provided for your assistance. If you do not wish to have a hearing or to submit material for my consideration, you may pay that amount and the case will be closed. Your remittance, payable to "U.S. Coast Guard", should be submitted with reference to this letter and marked for "Collection Clerk." Similarly, if I do not receive a response from you by (date), then I will consider that you have waived your right to have a hearing or submit information, and I will make a decision in the case based on the materials before me at that time.

If you have any questions concerning this matter, please call me or my assistant, (name), at (telephone number).

Sincerely,

_____
Hearing Officer

PLATE 13-1-1.4

Letter of Assessment-No Response Situation

Re: Name of Vessel/Facility: Case No._____

Date of Violation:

Gentlemen:

By my letter of (date), you were given notice of the institution of civil penalty proceedings concerning the above violation and you were offered an opportunity for a hearing. I have not received a timely response and, as a result, your right to a hearing has now been waived

This decision may be appealed to the Commandant of the Coast Guard. To do so, you should submit the appeal and any supporting brief to me within 30 days. Since you have waived a hearing in this case, the appellate process is limited to consideration of jurisdictional issues. Failure to submit an appeal within the prescribed time will result in the penalty becoming final.

If you do not wish to appeal, you may pay the penalty by submitting your check, payable to "U.S. Coast Guard." If neither your appeal nor your payment is received within 30 days, the case will be referred to the U.S. Attorney for collection of the assessed penalty.

Sincerely,

_____
Hearing Officer

Copy to: Commandant (G-WLE-1)
Unit

PLATE 13-1-1.5

Letter of Assessment (following response or hearing)

Re: Name of Vessel or Facility: Case No._____

Date of Violation:

Gentlemen:

I have carefully considered all the materials presented by you in this case.

(Discuss any defenses raised at the hearing or in the response and give a ruling on each defense)

This decision may be appealed to the Commandant of the Coast Guard. To do so, you should submit the appeal and any supporting brief to me within 30 days. Failure to submit an appeal within the prescribed time will bar its consideration, and failure to appeal on the basis of a particular issue will constitute a waiver of that issue in any subsequent proceeding. The issues which will be considered on appeal are those issues specified in your appeal which were properly raised before me, and jurisdictional issues.

If you do not wish to appeal, you may pay the penalty by submitting your check, payable to "U.S. Coast Guard." If neither your appeal nor your payment is received within 30 days, the case will be referred to the U.S. Attorney for collection of the assessed penalty.

Sincerely,

_____
Hearing Officer

Copy to: Commandant (G-WLE-1)
Unit

PLATE 13-1-1.6

SAMPLE HEARING OFFICER's LETTER OF WARNING

Re: Waterfront Facility/Vessel: CASE NO._____

Date of Violation(s):

Gentlemen:

Based upon a complete review of the evidence in subject case, including all matters submitted in writing (and at the hearing held on date), I am issuing this letter of warning to you.

Although the maximum civil penalty in this case is $_____, I believe that a letter of warning is appropriate in light of the nature of the violation and your violation history. However, you are urged to prevent a repetition of such discrepancies.

Unless you appeal this letter of warning, it will become an official record. This violation may be considered in the event that future violations occur.

If you believe that this letter of warning is unwarranted, you may appeal in writing to the Commandant of the Coast Guard. To do so, you should submit the appeal and any supporting brief to me within 30 days. The issues which you may raise are those which have been properly raised by you, as well as jurisdictional issues. Failure to submit an appeal within the prescribed time will bar its consideration, and failure to appeal on the basis of a particular issue may constitute a waiver of that issue in any subsequent proceeding. If no timely appeal is received, this action will be considered final.

Sincerely,

_____
Hearing Officer

Copies to:
Commandant (G-WLE-1)
COTP_____

PLATE 13-1-1.7

Sample: DISTRICT LETTER OF PENALTY COLLECTION

Re: Waterfront Facility/Vessel: CASE NO._____

Date of Violation(s):

Gentlemen:

This will acknowledge receipt of your check/money order in the amount of $_____.

Contingent upon clearance of your check/money order, subject case is closed.

Sincerely,

_____
District Commander (mps)

Copy to:
Commandant (G-WLE-1)
Unit

PART 13–2—PENALTY ASSESSMENT UNDER THE FEDERAL WATER POLLUTION CONTROL ACT

13–2–1. INTRODUCTION

This part of the manual contains policy and guidance for district commanders and designated hearing officers with respect to penalty assessments under section 311 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321). The district commander is responsible for the investigation of discharges, designation of one or more hearing officers, and referral of appropriate cases to the hearing officer. The hearing officer is responsible for administering cases fairly and impartially in accordance with 33 CFR 1.07 and for issuing decisions based on the facts of the case and the applicable laws and regulations.

The following guidelines state current policy and practices, interpret many terms, and provide examples where they would be helpful. These guidelines are intended to describe every phase of the civil penalty procedure for cases involving allegations of unlawful discharges of oil, from the discharge itself to the collection of the penalty. (Additional guidelines for cases involving alleged violations of pollution prevention regulations are contained in subpart 13–2–40.) These guidelines, to the extent that they describe penalty procedures, are intended to explain the civil penalty regulations in 33 CFR 1.07. However, the regulations themselves are the hearing officer's primary instrument of direction. This chapter is not to be construed as authorization to deviate from the regulatory requirements.

The Coast Guard is responsible for insuring that every report of discharge under section 311 of the FWPCA is investigated, and that every violation results in the assessment and collection of a civil penalty when the evidence discloses sufficient proof of the violation and the identity of the party legally responsible. Action taken by a state, municipality, or another Federal agency, other than action by the Environmental Protection Agency (EPA) pursuant to section 311(b)(6)(B) against a party in a given incident, shall *in no way* be deemed to eliminate the need for the institution of appropriate Coast Guard civil penalty assessment procedures.

While it is nowhere explicity stated that the Coast Guard must conduct an investigation to assess a penalty under section 311(b)(6) of the FWPCA, an investigation is necessary to develop evidence that proves the elements of the offense. An investigation is also necessary to obtain information concerning the size of the business, the owner's/operator's ability to stay in business, and the gravity of the offense, so that these points may be considered in assessing the penalty. In the absence of any specific legal requirements to the contrary, the implicit responsibility to investigate each discharge properly for the purpose of assessing a civil penalty rests with the Coast Guard. Agreements should be made among Coast Guard districts, EPA regions, and/or the states to distribute the burden of investigating all reported discharges. The predesignated on-scene coordinator's boundaries should coincide with these agreements, where practical. These agreements should outline the minimum information to be included in the investigative report. The Coast Guard must, by whatever means available, insure that an investigation is performed for a reported discharge. However, it is recognized that, in some instances, manpower and budgeting constraints may preclude the investigation of every reported discharge by Coast Guard personnel. The use of outside resources, such as state agencies, is encouraged when Coast Guard personnel are not available and when such resources can provide a timely response. In cases where there are more discharges than resources, a system of priorities may be established according to the severity of the discharges. Factors to be considered in determining severity include, but are not limited to, the:

(a) Size of the discharge.
(b) Type of pollutant.

(c) Environmental sensitivity of the geographic area of the discharge (i.e., water intakes, recreation areas, wildlife areas).

(d) On-scene weather.

(e) Corrective action taken by the discharger.

(f) Record of prior offenses.

(g) Potential for further discharge into the navigable waters or on adjoining shorelines.

It should be remembered that the ultimate objective of the Marine Environmental Protection (MEP) Program is to prevent pollution and, accordingly, in all instances of discharge reports, the cause of the discharge should be explicitly identified by the investigator so that preventive action can be initiated by the polluter. Mention should be made in the investigative report whether or not such action is taken.

The district commander shall insure that (1) information concerning the disposition of every civil penalty case is forwarded to the operational command or referring agency from which the report of violation originated, and (2) the inability to investigate all reported discharges due to resource insufficiencies is documented in quarterly summaries and in planning proposals. (See the *Planning and Programming Manual* (CG-411).) In certain instances, a request may be made to EPA that a section 308 letter be sent to the suspected violator to supplement or aid an investigation. The answers to the questions contained in the letter may furnish information, not otherwise obtainable, which will support the assessment of a civil penalty action.

13–2–5. DEFINITIONS FOR THE FWPCA

The following definitions are to be considered by investigating officers, district commanders, and hearing officers when discharging their duties.

13–2–5A. DISCHARGE

"Discharge", as defined in section 311(a)(2) of the FWPCA, as amended, (33 U.S.C. 1321(a)(2)), "includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping." However, "discharge" *excludes* "(A) discharges in compliance with a permit under section 402 of this act, (B) and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this act which are caused by events occurring within the scope of relevant operating or treatment systems." It has been suggested that the list of words describing discharge in section 311(a)(2) connotes some "active" participation by an external force and that, therefore, discharges which occur passively (e.g., where rain would fall into a pit of waste oil, causing the pit to fill and then overflow, with oil eventually reaching the navigable waters) should not be considered "discharges" for purposes of the FWPCA. *However, this is not the case.* The FWPCA prohibits *all* discharges, regardless of fault, negligence, or any other factor. Therefore, *any* form of transmission whatsoever of oil into the navigable waters or onto the shorelines of the United Sates shall be considered a "discharge."

The following guidance applies for discharges which occurred before November 2, 1978, the date on which the term "discharge" was amended by the addition of the three exclusions listed above. "Discharge" under section 311 *includes* a "continuous discharge" of the type which is designed to be regulated by section 402 of the FWPCA. A continuous discharge for which an EPA permit was pending or had been issued, pursuant to section 402 (33 U.S.C. 1342) was subject to the same standards as any other discharge. Therefore, if the discharge was in a harmful quantity, it was in violation, notwithstanding any permit procedure. Prior to November 2, 1978, the EPA issued no permits which authorized discharges of oil in violation of section 311. A permit issued pursuant to 33 U.S.C. 1342 is no defense to a violation, alleged under section 311 of the FWPCA, which occurred prior to November 2, 1978.

For discharges occurring on or after November 2, 1978, alleged violators may establish a defense to an alleged violation by proving that the spill was within one of the three exclusions to the term "discharge." In a case where this is in issue, the alleged violator has the burden of proving, through the introduction of permits, public record documents, and other information, that the spill fits within one of the statutory exclusions. The following are tests to be applied in determining whether a given spill is excluded from the definition of "discharge":

(1) A discharge is excluded under (A) if the discharge was fully in conformance with all relevant conditions of a section 402 permit. (A spill is not in conformance with a permit if it is in a quantity which meets the regulatory standards for harmfulness (See 40 CFR part 110) and if the permit contains language indicating that the permit does not excuse the holder from section 311 responsibilities.)

(2) A discharge is excluded under (B) if:

(a) The point source from which the discharge occurred and the oil or hazardous substance which was discharged are regulated specifically by a condition in a section 402 permit; and

(b) The public record accompanying either the issuance or modification of that permit identifies the specific circumstances which resulted in the discharge and indicates that these circumstances were reviewed by EPA in the formulation of the condition referred to in (a) above.

In the case of an attempt to determine whether a discharge fits within category (B), it is essential that complete and accurate documentation of the facts be presented.

(3) A discharge is excluded under (C) if:

(a) The discharge was from a point source for which a section 402 permit has been issued or permit application has been made;

(b) The discharge was continuous in nature or, if intermittent, had been anticipated as evidenced in the specific language of the permit or permit application; and

(c) The events which caused the discharge were involved with the operation of the physical operating or treatment systems connected to the point source from which it occurred.

Until a memorandum of understanding concerning the handling of excluded spills is developed, a copy of the file in every case in which a spill is determined to be excluded from the term "discharge" shall be forwarded to Commandant (G-WEP-3). If it is determined that this defense does not apply, the hearing officer shall state in the record the basis for the determination and proceed with the case.

13–2–5B. HARMFUL QUANTITIES

Harmful quantities of oil are defined in 40 CFR 110.3 as discharges which (1) violate applicable water quality standards or (2) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines. An exception to this is that "discharges of oil from a properly functioning vessel engine are not deemed to be harmful; but such oil accumulated in a vessel's bilges shall not be so exempt" (see 40 CFR 110.6). The "sheen test" has been judicially approved in many judicial decisions. Because of the difficulty in enforcing quantitative water quality standards, the "sheen test" has been the most widely used standard and remains the most straightforward method to determine whether or not the quantity of oil is a "harmful quantity." However, due to the decision in *U.S. v. Chevron*, the following guidance is provided:

For spills occurring prior to November 2, 1978 in the Fifth Judicial Circuit (Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, and the Canal Zone), a special procedure shall be followed. In all other areas, the *Chevron* decision is inapplicable. Due to changes in language in the 1978 Amend-

ments to the Federal Water Pollution Control Act, the *Chevron* decision is inapplicable to all spills occurring on or after November 2, 1978. For penalty cases involving spills in the Fifth Judicial Circuit which occurred prior to November 2, 1978, hearing officers shall:

(1) Continue to rely upon the sheen test and assess penalties as before, unless an expert witness' testimony or affidavit is produced which purports to establish that a discharge was not harmful.

(2) Before accepting a witness as an expert and before accepting his testimony or affidavit, require a showing that the witness is, in fact, an expert.

(3) Determine whether the expert is asserting that there was no harm to *any* life forms or other environmental interest or that only a certain type or types of life forms or environmental interests were not harmed. (This will also require a showing as to whether the witness is an expert capable of testifying about certain life forms or about all life forms and environmental interests.)

(4) If the witness provides evidence that the spill was not and could not have been harmful, general and specific rebuttal materials may be introduced, if available, by the program manager.

(5) Following the presentation of all evidence, the hearing officer must determine whether the alleged violator has overcome the presumption created by the harmful quantity regulations (that a discharge creating the condition in 40 CFR Part 110 is harmful), and, if so, whether the weight of all the evidence on the issue establishes that the spill was "not harmful" within the *Chevron* meaning; i.e., that the spill was not harmful, and that, even if there had been no cleanup, it could not have caused harm to the statutorily described interests. If the hearing officer finds that the alleged violator has prevailed on this issue, the charge must be dismissed. If the alleged violator has not prevailed, the hearing officer may assess a penalty if all the other elements of the violation have been proven.

In considering the exception for "properly functioning vessel engines," it is the Commandant's interpretation that this applies generally to properly functioning *outboard* engines. For this purpose, the "puddling" type, 2-stroke, outboard engine may be considered "properly functioning" notwithstanding the fact that it emits small amounts of unburned oil and gasoline directly into the water as a normal (design) function of its operation. Similarly, outboard and *inboard* engines which exhaust directly into the water may be considered "properly functioning," even though their exhausts often contain unburned particles of fuel and oil.

For oil spills beyond the contiguous zone, the EPA has not yet promulgated a definition of the terms "harmful quantity" or "quantity which may be harmful." Therefore, until such a definition is promulgated, there is no duty to report oil spills beyond the contiguous zone and there is no liability for a civil penalty or for cleanup cost reimbursement. In addition, it is to be noted that the 1978 Amendments to the FWPCA changed the prohibition of section 311(b)(3) so that it now refers to discharges in quantities which *may be* harmful, instead of quantities which *are* harmful. Since this is a less stringent standard than previously existed, the existing regulations, which were published under the more stringent law, will satisfy the requirement of the new law. Therefore, the EPA "harmful quantity" definition in 40 CFR part 110 will continue to be applicable to spills occurring even after November 2, 1978, until such time as EPA changes its regulations to reflect the statutory change.

13-2-5C. OIL AND HAZARDOUS SUBSTANCES

Discharges of all types of oil are prohibited, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with ballast or bilge water, vegetable oil, animal oil, coal oil, and oil mixed with wastes other than dredged spoil.

Although fish gurry is defined by Webster's Third New International Dictionary as "fishing offal: as

(a): the refuse from cutting up a whale and trying out the oil, (b); a slimy gummy substance (as that scraped off the back of a right whale or removed from a sponge in commercial processing), (c): FISH *OIL*," (emphasis added), it is the Coast Guard's position that for purposes of the FWPCA, fish gurry is not "oil." However, fish oil likely to have resulted from the processing or rendering of fish, such as aboard a factory ship, or carried as a cargo, *is* considered to be "oil" for purposes of the FWPCA.

The determination of whether or not a specific substance falls within the statutory definition of "oil" as found in section 3ll(a)(1) of the FWPCA (33 U.S.C. 1321(a)(1)) is a question of law which is in the nature of a judicial rather than an administrative determination. However, the agency charged with the enforcement of the FWPCA may construe the language of the act and make administrative determinations until changed or modified by the courts. For example, the Coast Guard has already determined that oil-based paints and condensate containing particles of oil *are included* within the statutory definition of "oil."

The act prohibits, with equal force, the discharge of hazardous substances. The EPA original regulations for hazardous substances were struck down by a Federal court, and the FWPCA has been amended to permit the promulgation of hazardous substance regulations. On 29 August 1979, the EPA issued final regulations listing "reportable quantities" for hazardous substances (44, FR 50776, 40 CFR 117) and incorporating the provisions of the 2 November 1978 amendments to the Clean Water Act (33 USC 1321(b)(2). A Commandant Notice (16450) is being prepared to give guidance on enforcement of these regulations, and the provisions of that Notice will be incorporated in a future change to this section. Hazardous substances listed in these EPA regulations will not be considered to be "oil" within the meaning of section 311. In addition, plate 13–2–5C.1 of this manual provides a list of substances which have specifically been determined to be *other than* "oil" for the purpose of section 311. Cases involving discharges of substances not classifiable as oil or hazardous substances shall either: (a) be referred to the U.S. attorney for the district in which the substance was discharged for possible prosecution under the Refuse Act, or (b) be referred to the regional administrator of the EPA region in which the discharge occurred, for institution of action under section 309 of the FWPCA.

13–2–5D. NAVIGABLE WATERS

Section 311(b)(3) of the FWPCA (33 U.S.C. 1321(b)(3)) prohibits "the discharge of oil or hazardous substances, (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), in such quantities as may be harmful as determined by the President." Section 502(7) of the FWPCA (33 U.S.C. 1362(7)) defines the term "navigable waters" as "the waters of the United States, including the territorial seas." The term "waters of the United States" includes not only the more traditionally recognized "navigable waters of the United States" but all streams, creeks, lakes, and ponds tributary thereto upstream to their various sources. Storm drains and similar artificially created systems whose discharges are not processed through treatment plants are "waters of the United States" when they discharge into this tributary system. Lakes and ponds within the United States which are not part of this tributary system are considered to be "waters of the United States" when the Federal government may exercise *any* constitutionally authorized powers over them. The extent of Coast Guard jurisdiction under section 311 of the FWPCA (33 U.S.C. 1321) is defined by regulation at 33 CFR 2.05–25(b).

The "waters of the United States" also include seasonally dry watercourses when there is water standing or flowing in them. The mere existence of a

channel or bed through which water could flow is insufficient without the actual presence of water.

This view takes into account nearly all of the waterbodies that exist in the country, the presence of water being the essential ingredient sought by Congress to be the subject of regulation in the FWPCA. However, U.S. waters should not be construed as ground water nor every puddle or depression containing or capable of containing water (see 406 Coast Guard Law Bulletin 7). In summation, it is the Commandant's position that for the purposes of the FWPCA, navigability is no longer a controlling factor, and the discharge of oil or hazardous substances into any of the waters which are part of the hydrological chain of the U.S., as described by the criteria in 33 CFR 2.05–25(b), is prohibited. In any given case, it is essential that the case file documents the basis upon which it is determined that the waterbody is a water of the United States.

Congress intended by the use of the term "adjoining shorelines" to reach pollutants discharged upon surfaces other than water. When read in conjunction with "navigable waters," the words "adjoining shorelines" mean the shoreline adjoining any waters of the United States. If there is a discharge in harmful quantity of oil or hazardous substances onto a shoreline of any waters of the United States, the discharger shall be subject to a civil penalty.

13–2–5E. OWNER, OPERATOR, OR PERSON IN CHARGE

Section 311(b)(6) of the FWPCA (33 U.S.C. 1321(b)(6)) provides that the owner, operator, or person in charge of a violating vessel or facility shall be liable to a penalty. In this regard, it should be noted that the term "person in charge" can refer to a corporation. The term "person in charge" was added to the act by the 1977 Clean Water Act Amendments to enable the Coast Guard to reach the responsible party, particularly when the owner and operator of a vessel are aliens outside U.S. jurisdiction. However, in most other situations, action should be instituted against the owner or operator of the discharging vessel or facility. Normally, it is preferable to proceed against an employer, rather than an individual employee, to encourage better training of employees and a sense of corporate responsibility for pollution prevention measures.

Section 3ll(a)(6) of the FWPCA (33 U.S.C. 1321(a)(6)) states that the term "owner or operator" means "(A) in the case of a vessel, any *person* owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment."

Only in an exceptional case should a mere employee of a vessel or facility be considered an "operator" or "person in charge" for the purposes of penalty assessment. However, if the employee is a licensed officer or tankerman, he may be subject to suspension and revocation proceedings under 46 U.S.C. 239 (R.S. 4450). If this is the case, the OCMI should be immediately notified by telephone to permit investigation under 46 U.S.C. 239.

13–2–5F. PERSON

"Person" is defined by section 311(a)(7) of the FWPCA (33 U.S.C. 1321(a)(7)) as including "an individual, firm, corporation, association, and a partnership." The term "corporation" includes municipal corporations and public corporations. Section 502 of the FWPCA (33 U.S.C. 1362) defines "person" as including a "municipality" and further defines "municipality" as including" a city, town, borough, county, parish, district, association, etc.," independent of the fact of incorporation. Since the relationship of the section 502 and 311 definitions has not been judicially resolved, the question of whether states and unincorporated municipalities are "persons" is still open to question. Cases involving these entities should be referred to the district legal officer for advice on how to proceed.

13–2–10. NOTIFICATION OF DISCHARGE

Subject to manpower and budgetary constraints (see subpart 74–1–1 of this manual), the Coast Guard shall thoroughly investigate every failure to report discharges of oil or hazardous substances in violation of section 3ll(b)(5) of the FWPCA (33 U.S.C. 1321(b)(5)). This section requires the "person in charge" of a vessel or of an onshore or offshore facility to notify the Coast Guard "as soon as he has knowledge of any discharge of oil or a hazardous substance in violation of section 311(b)(3) . . . ." (See 40 CFR part 110 and 33 CFR 153.203.) While this section of the FWPCA is enforced by criminal sanctions rather than civil penalties, it bears directly on the civil penalty procedure because this notification often affects the initial investigation by the Coast Guard. Several facets of section 311(b)(5) of the act merit clarification:

(1) While "person in charge" is *not* defined, "person" *is* defined in section 3ll(a)(7) of the FWPCA as including "an individual, firm, corporation, association and a partnership." (See 33 CFR 153.103(h) and 154.105(m).)

(2) The notification required by section 3ll(b)(5) of the FWPCA confers a statutory immunity from exploitation of the notification in any *criminal* case upon the person required to notify the Coast Guard, i.e., the "person in charge." Note, however, that this immunity only applies in cases in which the notification is required. If a person notified the Coast Guard of the discharge of a substance other than oil or a properly designated hazardous substance, no immunity from prosecution is conferred. *U.S. v. Ohio Barge Lines*, 410 F.Supp. 625 (W.D. La. 1975).

(3) Any employee of any corporation, firm, partnership etc., who notifies the Coast Guard of a discharge in accordance with section 3ll(b)(5) of the FWPCA, entitles his corporation to that same immunity from exploitation of the notification in any criminal case *if* (1) that employee is acting *for* or *on behalf* or as an *agent of* that corporation *and* (2) that corporation is *"in charge"* of that vessel or onshore or offshore facility from which oil is discharged. *U.S. v. Mobil Oil Corp.*, 464 F.2d 1124 (5th. Cir. 1972).

(4) The notification does *not* confer a statutory immunity from use of that notification in a civil penalty proceeding. Assessment of a civil penalty is not affected in any way by the fact that the owner or operator initially notified the Coast Guard of the discharge. *U.S. v. W.B. Enterprises, Inc.*, 378 F.Supp. 420 (S.D.N.Y. 1974); *U.S. v. Eureka Pipeline Co.*, 401 F.Supp. 934 (N.D.W.Va. 1975); *U.S. v. General Motors Corp.*, 403 F.Supp. 1151 (D.C. Ct. 1975); and *U.S. v. LeBoeuf Bros. Towing Co., Inc.*, 537 F.2d 149 (5th Cir. 1976).

(5) Therefore, if, during any stage of the investigation or civil penalty procedure, it becomes evident that there has been a violation of the notification requirements of the law, the case should be referred to the district legal officer for consideration of a further referral to the United States attorney for institution of criminal proceedings. The fact that criminal prosecution for a violation of section 311(b)(5) of the act may be pending or anticipated does not necessarily affect the ability to conduct civil penalty proceedings at the same time. In this regard, it must be realized that the civil and criminal proceedings are instituted for different violations of law and are separate matters.

(6) The immunity from criminal action based on notification extends generally to the Refuse Act (33 U.S.C. section 407) and to section 309(c) of the FWPCA (33 U.S.C. 1319(c)). There is, however, no immunity from prosecution for perjury or giving a false statement.

(7) The notification required by section 311(b)(5) of the FWPCA must be made immediately by the person in charge as soon as he has knowledge of any discharge of oil or a hazardous substance in violation of the act. It is important in the investigation of the discharge to determine whether and at what time

the person in charge obtained knowledge of the discharge and whether the notification was, in fact, *immediately* made. Failure to notify immediately is a violation of section 311(b)(5) of the act.

13–2–15. THE GRAVITY OF THE VIOLATION

This factor encompasses multiple considerations. In a given case, the hearing officer may consider factors such as, but not limited to, the following:

(1) What was the size of the spill?

(2) What type of pollutant was discharged?

(3) How environmentally sensitive was the area affected by the spill?

(4) Was the discharge intentional?

(5) Could the discharge have been prevented using the degree of care which is reasonable for a person involved with oil or harzardous substances?

(6) Was the discharge caused by an act or omission of a type previously attributable (according to official records) to that same owner or operator so as to place him on notice of the particular hazard or the need for additional precautions or safeguards? In this area, the number of previous violations attributable to the owner or operator should be considered. (The gravity of the violation would likely be greater for an owner/operator with five previous similar violations, all other factors (such as size and type of business) being equal. This is particularly true when the previous violations are similar in nature to the one being reviewed and when they are concluded by penalty actions. Mere reports of possible violations may *not* be considered as increasing the "gravity" of the later violation.) Although the sheer number of violations, without consideration of the size and type of business, may not yield much in the way of useful information, the overall effect of the violator's past record unquestionably bears on the foreseeability of spills and the reasonableness and adequacy of the care exercised to prevent recurring spills.

(7) Was the cause of the discharge a violation of the regulations in 33 CFR parts 151–159 (Subchapter O—Pollution)? (Note that a *separate* violation may have occurred under section 311(j). A violation of the pollution prevention regulations should be considered an aggravating factor even if a separate civil penalty has been assessed for that violation.)

(8) Did the owner or operator take special steps to try to avert the specific discharge?

(9) Was the discharge a result of an Act of God or a third party action?

(10) Was the severity of the discharge and its effects increased or decreased by the owner's or operator's efforts to undertake removal or by the owner's or operator's failure to undertake removal?

An Act of God or a third party action is not a defense in a section 311(b)(6) penalty case-only in a cleanup cost recovery action. It is recognized, however, that these may become part of the hearing officer's considerations in determining the gravity of the violation. In this context it must be remembered that a determination in a penalty case can have an effect on the Coast Guard's attempts to collect funds in a claim action for cleanup costs (e.g., when the hearing officer finds there was no negligence and the spill resulted solely from an Act of God or a third party, often the polluter will immediately pay the civil penalty so the case record can be used to excuse the paying of cleanup costs). In addition, a violator might attempt to recover from the Coast Guard amounts expended for cleanup if the hearing officer has unintentionally or improperly used terms which may be construed as findings of sole third party fault. Accordingly, terms such as "zero negligence" or "due *solely* to action by a third party action" should not be used in those cases where the hearing officer is not in full possession of all the details relating to precautions, past history, industry stan-

dards, and other relevant facts which would be necessary as a basis for him to make such a finding. Since he usually is not, care should be used in limiting findings to the facts of the case before the hearing officer.

In cases in which the issues of due care or other vital elements of the gravity of the violation are involved, the hearing officer should normally make a clear notation of each of those items of evidence in the case record which relates to the issues and should indicate that all have been considered. Cases are often appealed to the Commandant that have little or no indication of issues considered by the hearing officer other than cause and amount discharged. Noting the positive or negative factors in the case provides the Commandant with specific bases on which to reply to an appeal.

This should not be construed as a "cookbook" approach in which factors (1)-(10) above can merely be checked as affirmative or negative on a form without considering other factors which may be peculiar to the case. Rather, these ten factors are illustrative of common elements bearing on gravity. In a given case, they may or may not be in issue. Thus, they need be addressed only when they are relevant, established by evidence in the record, asserted by the alleged violator, or considered by the hearing officer.

13–2–20. FINANCIAL FACTORS

Section 311(b)(6) of the act establishes the concepts of the appropriateness of a penalty size to the size of the business of the violator, and the effect the penalty would have on the ability to remain in business, as separate factors to be considered by the hearing officer in determining penalty size. The penalty size in each case should reflect, among other things, the relative deterrent effect appropriate for the violation. Assuming two cases involving a similar violation, a $2,500 penalty might force neither violator out of business but it could have a disproportionately large deterrent effect on a small business and hardly any effect on a very large business. Thus, in two similar cases calling for a similar deterrent, this similarity of effect could be rationally achieved by the utilization of different penalty amounts. The use of descriptions indicating that penalties are reduced for small companies or increased for large companies is discouraged. Rather, penalties should be conceptually viewed as simply being set at levels which are appropriate to the size of the violators' businesses.

The Letter of Notification should solicit information concerning the size of the business of the owner/operator and the owner/operator's own evaluation of the effect that a penalty would have in the amount preliminarily determined to be appropriate. Before the notice letter is sent, the size of the business of the owner/operator should have been considered in making a preliminary determination only if there was evidence of business size in the case file. If information is then received from the party charged which differs materially from the hearing officer's preliminary consideration, the hearing officer should reevaluate these factors before making an assessment. If no information is received, the violator will have waived further consideration of these factors and no adjustment need be made before an assessment is made based on the size of the business or effect on the ability to continue to operate.

The hearing officer should properly consider the overall corporate structure of the owner/operator. For example, a small, wholly owned subsidiary of a large conglomerate or holding company should be considered as a part of the larger conglomerate for purposes of considering the size and impact of a civil penalty. Most frequently, when one-vessel corporations are controlled by a parent operating company, the size of the parent company shall be considered.

In the case of a discharge from a home heating oil tank or a privately owned pleasure boat, the size of the business and the ability to remain in business should be translated as the homeowner's or boat owner's ability to pay. Likewise, the "notice" letter should solicit information concerning the ability to pay and not the size of the business, etc.

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13–2–25. CIVIL PENALTIES UNDER THE FWPCA

13–2–25A. GENERAL

The law requires, and it is the Commandant's policy to assess, a civil penalty for *every* unlawful oil discharge and hazardous substance discharge which is in violation of section 311(b)(3) of the FWPCA, except for those violations which are, by interagency agreement or understanding, forwarded to the Department of Justice (DOJ) or the U.S. Environmental Protection Agency (EPA) for institution of other proceedings. Copies of these agreements will be furnished as plates at the end of this part of the manual when they become available.

The hearing officer *shall* assess a civil penalty in every case referred to him in which he has substantial evidence that:

(1) There was a discharge (other than discharge of oil beyond the territorial sea of the United States, which was permitted by the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended);

(2) in a quantity defined by regulation as one which may be harmful;

(3) of *oil* (or *hazardous substance* which the Environmental Protection Agency (EPA) has promulgated in its list of hazardous substances);

(4) into the waters of the United States or other waters covered by the FWPCA (or, if the discharge was in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)); and

(5) that the party charged is the owner, operator, or person in charge of the vessel or facility from which the oil or hazardous substance was discharged.

If there is evidence of a criminal violation, the district commander is authorized to determine if the case should be referred to the U.S. attorney for prosecution (see 33 CFR 1.07–19).

13–2–25B. PENALTY ASSESSMENTS

In assessing civil penalties with respect to an "owner," "operator," or "person in charge," two critical questions must be considered:

(1) What is the source of the discharge?

(2) Who is the owner, operator, or person in charge of that source?

The FWPCA requires assessment of a civil penalty against the owner, operator, or person in charge of any vessel or any onshore or offshore facility from which oil or a hazardous substance is discharged in violation of the Act. As defined in section 311(a)(6) of the FWPCA, the term "owner or operator" means "(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility . . . ."

The congressional declaration of policy for section 311 is, "that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States . . . ." It is Coast Guard policy to vigorously pursue a program of measures to achieve the congressional intent. To the extent that the law allows discretion in making enforcement decisions, that discretion should be exercised in a manner calculated to best realize the purposes of the law. The determinations of issues relating to identification of spill sources and persons legally responsible for spills frequently are factual in nature. Strict rules and guidelines which unnecessarily limit the hearing officer's ability to consider all relevant facts in exercising his functions may tend to prevent him from properly serving congressional and Coast Guard purposes. Therefore, the following information is intended to assist hearing officers in a general way. In any given case, the resolution of the issue

presented must be governed by the hearing officer's careful evaluation of the facts of that case and the applicable laws and regulations. While the civil penalty provisions of section 311(b)(6) of the FWPCA are based on strict liability, there is room for the exercise of discretion in determining the vessel or facility to be considered the actionable source and in determining the person to be considered the owner, operator, or person in charge of that source. Since the purposes of the FWPCA are clearly stated as being the restoration and maintenance of the integrity of the waters of our nation, and thus elimination of oil and hazardous substance discharges, penalties should be assessed in a manner which will reasonably serve these purposes.

13–2–25C. DETERMINING PROPER PARTIES

Some time ago, the "conduit theory" was devised as a conceptual tool to assist hearing officers in determining which vessel or facility, in a case involving a number of potentially actionable sources, could most appropriately be considered as the discharge source for penalty purposes. Thus, when oil is discharged from one source, flows across or through a facility or vessel of an *innocent* party, and enters the water, the owner or operator of the original source may be proceeded against in the penalty action. The property from which the oil was ultimately discharged into the water is only viewed as a conduit. If a vessel or facility is determined to be an innocent conduit, a penalty should not be assessed against its owner or operator merely because the owner or operator of the original source is unknown. To the extent that the articles beginning at 405 Law Bulletin 1 and 411 Law Bulletin 32 indicate a contrary result, they should no longer be followed. When the evidence before the hearing officer indicates that the facility or vessel across or through which the oil flowed was not merely a passive and innocent conduit, the analysis of which property should be treated as the source for penalty purposes is somewhat more complicated. In those situations involving two or more properties which actively discharged the oil or failed to utilize reasonably available measures to avert the introduction of oil to the waters, any one (or more) of the properties may be considered as the source. However, the hearing officer must evaluate all the evidence before him and, based on considerations such as causal factors and the capability for utilizing reasonable precautions, must determine whether action against the owner or operator of a discharging source other than the original source will better serve the purposes of the act.

Once the actionable source has been identified, it may be necessary to determine which of several parties is the "owner or operator" for penalty assessment purposes. Section 311(b)(6) of the FWPCA is a remedial provision designed to spur owners and operators of vessels and facilities to adopt policies and to take measures necessary for the prevention of oil pollution by those vessels and facilities. By reaching either the owner or the operator of a violating vessel or facility, Congress has provided a flexible means to reach those persons capable of taking such steps. While the question of the ownership of a vessel or facility is normally a matter which is easily established, the purposes of the law are not always served most effectively by proceeding against the owner. Sometimes, it is more appropriate that the "operator" of the vessel or facility be charged. In the past, the term "operator" was narrowly interpreted to include only persons exercising complete business control over a vessel or facility. However, this narrow view occasionally precluded action against the person who was in the best position to have taken steps to prevent a violation. It is now a recognized principle that environmental protection laws should be interpreted as broadly as possible to give full effect to their purposes. This, combined with the Coast Guard's policy of enforcing laws as effectively as possible, requires that the term "operator" be defined to also include persons not having complete business control of a vessel or facility. A party not exercising complete business control over a vessel or facility may, nevertheless, be considered the operator of a vessel or facility if that party exercises physical or operational control of it. Thus, future resolutions of this issue should involve consider-

ations of the degree of control exercised by the parties, the facts of the violation, and which party could have most reasonably taken steps to avert the violation, rather than mere consideration of the parties' contractual relationships so as to determine which party had business control. In cases with multiple parties, where control of the vessel or facility is so fragmented as to preclude a finding that any single person is the "operator," the hearing officer may, of course, proceed against the "owner."

While general discussions of issues such as source and owner/operator determinations must be based on legal principles, the resolution of these issues in any particular case is vested primarily in the discretion of the hearing officer after his evaluation of all the facts of that case. This discretion should be exercised in a manner which most reasonably and effectively serves the purposes of the law being enforced. In issuing his decision, the hearing officer should clearly state the grounds for the decision and the grounds should be supported by sufficient evidence in the case file to allow for informed rulings, should there be appeal proceedings or judicial review.

In summary:

(1) Civil penalties shall be assessed against the most responsible party that can be reasonably determined as an owner, operator, or person in charge of any vessel or facility from which a discharge occurs in violation of the act.

(2) Particular care shall be exercised in identifying the owner or operator in accordance with the above discussion.

(3) In those cases where a pollutant reaches the water via a vessel or facility which is merely an *innocent* conduit for a substance which is discharged from another vessel or facility, the penalty shall normally be assessed against the owner or operator of the original source of the discharge.

13–2–30. MINIMUM PENALTIES

Neither assessing a zero penalty nor issuing a letter of warning in lieu of a penalty meets the requirement of the statute that a penalty "shall be assessed." If the facts warrant the imposition of a minimum penalty, then the penalty should be reasonably sufficient to motivate owners and operators of vessels and facilities to take adequate measures to prevent future unlawful discharges. Hearing officers may sometimes be confronted by what could be termed 'trivial" or "de minimis" cases. They should be able to recognize a case as such and treat it appropriately by assessing a nominal penalty.

It must be remembered, however, that in any one case, the assessed penalty must be based on its own set of facts. While one aggravating factor bearing on the gravity of the violation may be slight, another might be very serious, thereby resulting in a substantial penalty. It is the Coast Guard's policy that a substantial penalty is warranted when the size of a discharge or other factors bearing on the gravity of the violation indicate that the discharge was serious. See *U.S. v. Marathon Pipe Line Co.*, 12 ERC 1588 (7th Cir, 1978); *U.S. v. Tex-Tow, Inc.*, 12 ERC 1593 (7th Cir. 1978). Thus, care should be exercised to insure that proper consideration is given to all the factors bearing on penalty size.

13–2–35. USE OF RECORDS KEPT IN ACCORDANCE WITH SECTION 308 OF THE FWPCA

Section 308 of the FWPCA (33 U.S.C. 1318) provides authority for the Administrator of the Environmental Protection Agency (EPA) to require the owner or operator of any point source to install, use, and maintain monitoring equipment or methods, to sample effluents, and to maintain records and make reports whenever required to carry out the objectives of several sections of the FWPCA, including section 311. Section 308 also gives the Administrator of the EPA or his authorized representative the right to have access to and to copy these records. These records are also to be available to the public except in certain narrowly defined situations.

Section 308 specifically cites a purpose of the record-keeping as "determining whether any person is in violation of any such effluent limitation, prohibition or effluent standard . . . ." It is appropriate to use records kept in accordance with section 308 in the assessment of a civil penalty for discharges of oil or hazardous substances in harmful quantities under section 3ll(b)(6) of the act (33 U.S.C. 1321(b)(6)) against the owner or operator and to use the records to notify under section 3ll(b)(5) of the act (33 U.S.C. 1321(b)(5)). Section 308 records may be used whenever they are received, and the Coast Guard may request the EPA to obtain additional information through the use of section 308 whenever necessary or desirable to supplement information already received or gathered.

The program manager may obtain section 308 records in cases where Coast Guard investigation is not practical, by initiating a request to the appropriate EPA regional administrator. The use of section 308-required records will not violate the discharger's constitutional rights against self-incrimination under the Fifth Amendment, because that provision applies only to criminal actions and the penalty assessed under section 311(b)(6) of the FWPCA is a civil one. Furthermore, a corporation has no constitutional privilege against self-incrimination. Care should be taken not to confuse arguments concerning constitutional self-incrimination protection with the purely statutory basis for the immunity provided in section 311(b)(5) of the FWPCA (33 U.S.C. 1321(b)(5)).

13–2–40. PENALTY ASSESSMENT UNDER THE POLLUTION PREVENTION REGULATIONS

The pollution prevention regulations (33 CFR parts 151–159 (Subchapter O—Pollution)), issued pursuant to section 311(j)(1) of the FWPCA (33 U.S.C. 1321(j)(1), went into effect on 1 July 1974. Since that time, review of cases invoiving civil penalty assessments for oil pollution incidents that violate 33 U.S.C. 1321(b)(3) indicates that a significant number of violations of the pollution prevention regulations are being overlooked. During the investigation of oil pollution incidents, close attention shall be given to possible violations of the pollution prevention regulations.

Cases involving these regulations are handled as all other regulation violations by the COTP. However, *no* violation should be regarded as minor when it has contributed to or will likely contribute to a discharge of oil, is a repeat violation, or when there is no good faith effort on the part of the violator to achieve rapid compliance. This should normally be reflected in the penalty size. If at all possible, cases involving a discharge of oil or hazardous substances as a result of a prevention regulation violation should be processed simultaneously through penalty procedures.

While the size of the business and the impact of the civil penalty on the ability of the owner or operator to remain in business must be considered during the section 311(b)(6) penalty process, these are *not* factors which are required to be considered when contemplating the imposition of a civil penalty under section 311(j)(2). However, consideration of these factors may be appropriate anyway so that the deterrent effect of the penalty may be properly considered.

13–2–45. PENALTY ASSESSMENT FOR MARINE SANITATION DEVICES

In addressing civil penalties pursuant to section 312(j) of the FWPCA, hearing officers are subject to 33 CFR 1.07. The goal of program managers, in referring cases to hearing officers for institution of civil penalty action, should be to bring vessels into compliance with the requirements. Program manager recommendations made pursuant to 33 CFR 1.07–10 shall be commensurate with the gravity of the violation and the need to insure future compliance with MSD requirements (33 CFR 159). Where a violator provides the hearing officer, before the assessment of any penalty, with evidence that the deficiency has been corrected or that a good faith

effort has been made, the hearing officer may, in an appropriate case, issue a letter of warning instead of a penalty. Similarly, during the assessment process, the hearing officer may, in an appropriate case, provide a violator with a specified number of days to correct the deficiency and provide evidence of the correction to the hearing officer. If the deficiency is corrected and the evidence of the correction is to the satisfaction of the hearing officer, then the hearing officer may issue a letter of warning in lieu of a penalty.

PLATE 13-2-5C.1

SUBSTANCES WHICH ARE NOT CONSIDERED OIL FOR THE PURPOSES OF THE FWPCA

Acetone
Alcohols
Benzene
1,3-Butadiene
Butane
2-Butene-1,4-Diol
Butanol
Butylene
Butylene oxide
Calcium chloride
Caprolactum
Caustic potash
Caustic soda
Cumene
Cyclopentadiene
Dichlorcethane
Diethanolamine
Diethyl benene
Diethylene triamine (EDTA)
Diisobutylene
Diisopropanol amine
Dipropylene glycol (DODECENE)
Dry oil-base paint
Ethane
Ethanol
Ethyl acetate
Ethyl chloride
2-Ethyl hexanol
Ethylene
Ethylene glycol
Ethylene oxide
Fish Gurry (unprocessed)
Glycerine
Hydroxy ethyl acrylate
Hydroxy propyl acrylate
Isoamylene
MAPP Gas
Magnesium hydroxide
Methyl alcohol
Methyl chloride
Methyl ethyl ketone
Methylene chloride
Monoethanol amine
Nonene
Octanol
Oleum
Pentane perchlororoethylene
Petroleum coke
Phthalate plasticizers
Polyethylene glycols
Propane
Propylene
Propyl alcohol
Propylene glycol
Propylene oxide
Propylene dichloride
Tetraethylene glycol
Trichlorobenzene
Trichloroethane
Trichloroethylene
Triethanol amine
Triethylene glycol
Triethylene tetramine
Tripropylene glycol
Vinyl acetate
Vinyl chloride
Vinyl toluene
Vinlidene Chloride
Xylene (O,P)
All substances designated by the EPA in 40 CFR parts 116 and 117

MARINE SAFETY MANUAL

CHAPTER 14—NUMBERING OF UNDOCUMENTED VESSELS

CONTENTS

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PART 14–1—NUMBERING OF UNDOCUMENTED VESSELS—GENERAL

14–1–1. FEDERAL AND STATE LEGAL AUTHORITY FOR NUMBERING OF UNDOCUMENTED VESSELS

14–1–1A. FEDERAL AUTHORITY

The Secretary of Transportation, under 46 U.S.C. 1467, was given the authority to establish a standard numbering system for vessels and to approve state numbering systems which are in accordance with the standard numbering system. The standard numbering system was established and can be found in 33 CFR 173.

14–1–1B. AUTHORITY FOR STATE NUMBERING

33 CFR 174 sets forth the requirements for state numbering systems. Most of the states have met the basic intent of the standard system and their numbering systems have been approved by the Coast Guard. As of 1976, only four jurisdictions do not have state numbering systems that operate in compliance with the standard system. They are: Alaska, Washington, New Hampshire, and American Samoa. Commandant (G-BLC-4) numbers all boats registered in these states that operate on waters under the jurisdiction of the United States.

14–1–5. GENERAL COMPARISON OF FEDERAL AND STATE UNDOCUMENTED VESSEL NUMBERING

States that have approved numbering systems must meet the basic intent of the standard system found in 33 CFR 173 and 174, and they must number all undocumented vessels equipped with propulsion machinery of any type. There are slight differences between the standard system and individual state systems. For example, Rhode Island registrations expire every 2 years instead of the 3 years allowed in the standard system. In other states, the registration expires annually. Approximately one-quarter of the states require numbering of vessels other than only those propelled by machinery. Validation stickers, required for those vessels numbered by the Coast Guard, are optional for state numbering systems and as of 1976 are not required by all states.

14–1–10. PROCEDURES FOR FEDERAL AND STATE UNDOCUMENTED VESSEL NUMBERING SYSTEMS

Federal and state undocumented vessel numbering systems follow similar procedures. In the case of a new number issue, the owner of the undocumented vessel sends a completed application for a Certificate of Number, plus a registration fee, to the state numbering authority, or to the Commandant (G-BLC) if the state does not have a Coast Guard-approved numbering system. Upon receipt of the application and fee the numbering authority will usually issue a temporary Certificate of Number. The permanent certificate and validation decal(s), if required, will be forwarded to the owner at a later date. The validation decals are distinctively colored to indicate the year the number expires. For further information on this subject review the numbering regulations of a particular state or, in the case of states whose boats are numbered by the Coast Guard, refer to 33 CFR 173.

14–1–15. OFFENSES RELATED TO NUMBERING OF UNDOCUMENTED VESSELS

14–1–15A. PROCESSING VIOLATIONS

In states which have an approved numbering system, enforcement of violations of the numbering regulations will be deferred to the state authority. Where there is no approved state numbering system, a report of violation shall be forwarded to the district commander for assessment under civil penalty procedures.

14–1–15B. DIFFERENCES BETWEEN STATE AND FEDERAL REQUIREMENTS

Once approved, a state numbering system is in full effect and exemptions granted by the state are recognized by the Coast Guard. For example, North Carolina, which has an approved system, exempts boats powered by electric motors. Although an electrically propelled boat is required by Federal regulations to be numbered, because of the North Carolina law, the Coast Guard will take no action against the operator of such a boat in that state.

14–1–20. NUMBERING OF CERTIFICATED BUT UNDOCUMENTED/NON-STATE NUMBERED VESSELS

14–1–20A. GENERAL

Due to the nature of employment, the route upon which they operate, their size, or agency understandings, certain classes of vessels are required to have a Certificate of Inspection, but are not required to be State or Federally numbered. These types of vessels include, but are not limited to:

(1) Public vessels, public school ships, and civilian-manned vessels of the Military Sealift Command or the Army Corps of Engineers, which have applied for and received a Certificate of Inspection.

(2) Barges, sailing vessels, and inland motor vessels carrying flammable or combustible cargo in bulk or dangerous cargo requiring a Certificate of Inspection, but not subject to Federal documentation or State numbering statutes.

(3) Vessels not normally inspected as a consequence of location of operation, but which must obtain a Certificate of Inspection pursuant to a change in location of operation or a change of service. An example is a barge or dredge which changes location of employment via a route which brings them within the statutes relative to "Seagoing Barges."

An internal numbering system has been established and used as a standard for record maintenance and tracking of tank and dangerous cargo barges. This system is used to track vessels through changes of ownership, operators, and names for maintenance of the *List of Inspected Tank Barges and Tankships*, COMDTINST M16711(Series).

14–1–20B. PROCEDURES

Upon receipt of a Certificate of Inspection, Amendment, Inspection Report, or Casualty Report on a certificated but undocumented vessel, Commandant (G-MA) will assign to that vessel a Coast Guard number consisting of the letters "CG" followed by six numeric characters; for example, "CG-123456." Cognizant offices will be notified of the number assigned to each vessel, and all Certificates of Inspection and reports should list that number in the "Official Number/Award Number" block of the form.

When the Marine Safety Information System (MSIS) becomes operational, these Coast Guard numbers will be automatically generated by the system (see part 10–4 of this manual). These numbers will be used to track vessels through all marine safety information and data systems, as discussed in chapter 10 of this Manual. Owners are encouraged, but not required, to mark their vessels with the Coast Guard number in a manner similar to that used to display official numbers.

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AUG 21 1980

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
U.S. COAST GUARD (G-MP-5)
WASHINGTON, D.C. 20590
PHONE: (202)426-9776

COMDTNOTE 16000
24 JUN 1980

9350

COMMANDANT NOTICE 16000

CANCELLED 24 NOV 1980

Subj: CH-7 to Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual (COMDTINST M16000.3)

1. PURPOSE. This Notice changes Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual by revising chapters 2, 6, 8 and 10, and adding chapter 12 to the volume.

2. DIRECTIVES AFFECTED. COMDTINST 5720.8, COMDTINST 16465.8, COMDTINST 16465.9, and COMDTINST 16601.2 are hereby superseded and cancelled.

3. SUMMARY OF CHANGES.

   a. New subparts 2-1-67 and 2-1-69 identify positions established to administer the Offshore Oil Pollution Compensation Fund.

   b. New subpart 6-3-5 incorporates COMDTINST 16601.2, subj: Emergency Lights and Sirens on Port Safety Vehicles; authorization for use of.

   c. Subparts 8-2-1, 8-2-5 and section 8-2-5I have been changed to reflect standard IMCO terminology.

   d. New subpart 8-5-30 incorporates COMDTINST 5720.8, subj: Public Information Efforts During Major Pollution Incidents.

   e. New part 10-16 incorporates COMDTINST 16465.9, subj: Spill Cleanup Equipment Inventory (RCS G-WEP-14023).

   f. New part 10-17 incorporates COMDTINST 16465.8, subj: Pollutant Spill Trajectory Forecasting Service.

   g. New part 10-18 discusses the AMVER system and defines AMVER boardings.

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NON-STANDARD DISTRIBUTION: (see page 3)

3. h. New chapter 12 reflects current policy governing regulation of commercial diving activities.

4. ACTION.

a. Remove and insert the following pages:

REMOVE	INSERT
2-0:1 through 2-0:2	2-0:1 through 2-0:3, CH-7
2-1:15 through 2-1:17	2-1:15 through 2-1:17, CH-7
6-0:1	6-0:1, CH-7
6-3:1	6-3:1, CH-7
8-0:1 through 8-0:2	8-0:1 through 8-0:2, CH-7
8-2:1 through 8-2:2	8-2:1 through 8-2:2, CH-7
8-5:3	8-5:3 through 8-5:6, CH-7
10-0:1 through 10-0:2	10-0:1 through 10-0:2, CH-7
	10-16:1 through 10-16:21, CH-7
	10-17:1 through 10-17:4, CH-7
	10-18:1, CH-7
	12-0:1, CH-7
	12-4:1 through 12-4:5, CH-7

b. Make the following pen-and-ink changes:

(1) Page 10-5:1, subpart 10-5-1, last line -- change "2-7-5" to read "part 2-8."

(2) Page 10-6:1, section 10-6-1B, last line -- change "MSM 86-4-3" to read "MSM 86-4-10."

c. Make an appropriate entry on the "Record of Changes" page at the front of the volume.

5. CHANGES. Feedback from field units plays a significant role in improving the quality and effectiveness of the Marine Safety Manual. Recommendations for improvement should be made on Form CG-5122 which has been supplied with the manual, or, if unavailable, by any other form of convenient written communication.

H. Bell

HENRY H. BELL
Chief, Office of Merchant Marine Safety

Encl: (1) CH-7 to Volume I, COMDTINST M16000.3

COMDTNOTE 16000
84 JUN 1980

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MARINE SAFETY MANUAL

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2–1–51. PORT SAFETYMAN

Under the general direction of the COTP the port safetyman patrols security and safety zones; conducts harbor patrols; enforces anchorage and load line regulations; and conducts waterfront facility spot checks, inspections, and surveys.

2–1–53. INVESTIGATING OFFICER

An investigating officer is an officer or employee of the Coast Guard designated by the Commandant, district commander, or OCMI for the purpose of making investigations and reports of marine casualties and accidents in matters pertaining to:

(1) conduct of seamen;
(2) possible load line violations;
(3) violations of vessel navigation laws;
(4) damage to aids to navigation;
(5) recreational boating deaths and certain other boating accidents;
(6) waterfront facility casualties or incidents;
(7) discharges of oil, hazardous substances, or refuse into or upon the navigable waters of the United States.

An OCMI is an investigating officer without further designation (46 CFR 4.03–30).

2–1–55. POLLUTION INVESTIGATOR

A pollution investigator is an officer (petty, warrant, or commissioned) designated by the COTP to conduct the investigation of reports of water pollution, to determine whether a violation of the law did in fact occur, and, if so, to determine the source of the pollution and to adequately document the violation. The pollution investigator may also represent the COTP in his function as on-scene coordinator under the National Oil and Hazardous Substances Pollution Contingency Plan; the OSC should not normally be the pollution investigator.

The pollution investigator should be thoroughly familiar with:

- The Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*);
- Ports and Waterways Safety Act (33 U.S.C. 1221 *et seq.*);
- The Refuse Act (33 U.S.C. 407);
- The various oil pollution regulations contained in 33 CFR 151–156 (subchapter O);
- Port safety regulations concerning bulk liquid transfer (33 CFR 126.15(0));
- Oil Pollution Act of 1961 as amended (33 U.S.C. 1001 *et seq.*);
- National Oil and Hazardous Substances Pollution Contingency Plan;
- Regional Contingency Plan;
- DOT/EPA memorandum of understanding on transportation and non-transportation related facilities;
- Executive Order #11735 (33 U.S.C.A. 1321 note);
- The rights of a person who is charged or who may be charged with a criminal offense, the responsibilities of the investigating officer to protect these rights, and how those rights affect his investigation;
- Any other laws, regulations, and Coast Guard instructions and notices concerning water pollution control (including the guidelines in chapters 44, 74, 82, and 86 of this manual).

He should also be familiar with:

- Clean Water Act of 1977 (91 Stat. 1566, 33 U.S.C. 1251 *et seq.*);
- Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401, *et seq.*);

- Applicable IMCO Conventions (especially MARPOL 73, SOLAS 74);

- Intervention on the High Seas Act (88 Stat. 8, 33 U.S.C. 1471–1487);

- Coast Guard Jurisdictional Regulations in 33 CFR 2.05 - 2.25(a)(b);

- EPA Regulations Concerning Pollution (40 CFR 110, and 40 CFR Subchapter D);

- EPA Hazardous Substance Regulations;

- Penalty Regulations (33 CFR 1.07);

- Title III of the Outer Continental Shelf Lands Act Amendments of 1978, 43 U.S.C. 1811 *et seq*;

- 33 CFR 135–136; and

- DOT/DOI Memorandum of Understanding on Respective Responsibilities Under the National Contingency Plan (OCS).

2–1–57. LICENSING AND CERTIFICATING EXAMINER

A licensing and certificating examiner (LCE) is a person who is fully qualified to prepare, conduct, and evaluate examinations given to persons applying for licenses, certificates, or documents. Under the direction of the chief, document and license department he may issue appropriate licenses, certificates, or documents to personnel in accordance with applicable laws, regulations, and directives.

2–1–59. SHIPPING COMMISSIONER

A shipping commissioner (SC), who may be an officer (commissioned, warrant, or petty) or a civilian, is a person who is fully qualified to supervise and direct the execution of agreements involving the shipment and discharge of merchant seamen, and other similar records in accordance with applicable laws, regulations, and directives. A provision of 46 U.S.C. 545 specifies that the SC is also responsible for:

(1) providing the means for engaging seamen by keeping a register of their names and characters;
(2) supervising their engagement and discharge in the manner prescribed by law;
(3) providing means for securing the presence on board, at the proper times, of men who are so engaged;
(4) facilitating the making of apprenticeships to the sea service;
(5) performing of such other duties relating to merchant seamen or merchant ships as may be required by law.

2–1–61. DEPUTY SHIPPING COMMISSIONER

A deputy shipping commissioner (DSC) is a person who is similarly fully qualified to supervise and direct the execution of agreements involving the shipment and discharge of merchant seamen and other similar records in accordance with applicable laws, regulations, and directives. The duties and responsibilities of the DSC are the same as those of a shipping commissioner. The DSC may be an officer (commissioned, warrant, or petty) or a civilian.

2–1–63. VESSEL ADMEASURER

An admeasurer's responsibilities are to administer, supervise, and perform work involved in ascertaining, by measurement and computation, the gross and net tonnage of vessels requiring application of provisions of the navigation laws of the United States and regulations and rulings thereunder, Panama Canal rules, and Suez Canal regulations.

An admeasurer's duties include:

(1) studying plans and blueprints;
(2) taking physical measurements of space in vessels;

(3) determining dimensions by scaling from blueprints and drawings, applying mathematical formulas, and preparing scale drawings;

(4) preparing certificates of admeasurement which specify the build of vessels, method of propulsion, number of decks and masts, length, depth, breadth, gross and net tonnages, exempted and deductible space (depending upon use and details of construction), and other descriptional details required for the documentation of vessels.

2-1-65. VESSEL DOCUMENTATION SPECIALIST

A vessel documentation specialist is responsible for the documentation and redocumentation of vessels under the laws of the United States, and for the examination, analysis, acceptance, and recording of bills of sale, mortgages, liens, and other instruments of title. A vessel documentation specialist is also charged with the maintenance of records of title for documented vessels, and the administration of navigation laws and related statutes as they apply to vessel documentation. The vessel documentation specialist positions include supervisory documentation officers, documentation officers (journeyman level), documentation assistants, and documentation trainees. Whatever their specialist position, those carrying out the field documentation function are generally known as documentation officers.

▼2-1-67. OFFSHORE OIL POLLUTION COMPENSATION FUND REPRESENTATIVES

The Offshore Oil Pollution Compensation Fund representatives are designated by the Commandant and assigned to the staffs of Commander, Atlantic Area and the Commanders, Eighth and Eleventh Coast Guard Districts. The fund representative is responsible for initial review of cases involving alleged violations of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811 et seq). He monitors performance of private claims adjustors and provides assistance to the Federal on-scene coordinator (OSC) when requested. In cooperation with the district commander (m), the Regional Response Team, and the predesignated OSC's he provides training for private claims adjustors and plans for their integration into on-scene activities. He has authority to authorize payment of single claims amounting to less than $100,000, and multiple claims amounting to less than $200,000, which exceed the amounts authorized for payment by the claims adjustor.

▼2-1-69. OFFSHORE OIL POLLUTION COMPENSATION FUND CLAIMS ADJUSTOR

The Offshore Oil Pollution Compensation Fund claims adjustor is a private adjustor whose services are contracted for by the fund administrator. He shall be identified in the regional and local contingency plans, and shall report on-scene for an OCS-related oil pollution incident whenever damage claims payable from the fund result. His sole responsibility is the settlement of damage claims, and his expenses are financed by the fund. While on-scene, he can provide valuable information to the OSC and should be afforded all reasonable cooperation in the way of Government-owned equipment, transportation, and other support requirements, when available.

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CHAPTER 6—ADMINISTRATION OF MATERIEL

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PART 6–3—ADMINISTRATION OF VEHICLES

6–3–1. GENERAL

Due to the complexities involved in administering either a GSA or Coast Guard-owned vehicle, this part will not duplicate information found in other publications. Detailed procedures concerning vehicle administration may be found in the Civil Engineering Manual, CG-251; Comptroller Manual, CG-264, Art. 3B17027; Commandant Instruction 11240.7 (series); and the Federal Management Regulations, 41 CFR 101.

▼6–3–5. EMERGENCY LIGHTS AND SIRENS ON PORT SAFETY VEHICLES

6–3–5A. Background

The objective of the Port Safety and Marine Environmental Protection Programs is to improve the quality of the marine environment and safety of persons and property on and adjacent to the navigable waters of the United States. These responsibilities and the high level of public concern associated with the preservation and protection of the marine environment and its resources have required the Coast Guard to enhance its immediate response capabilities. Occasionally, an immediate Coast Guard response will be required in order to prevent or mitigate a significant hazard to the public. In these extraordinary situations the use of emergency lights and sirens on response vehicles can greatly enhance the execution of swift and effective response activities.

6–3–5B. Policy

The use of emergency lights and sirens on port safety response vehicles is authorized subject to the conditions in this part. To be effective, however, warning lights and audible devices should identify and emphasize the special function of the emergency vehicle. Since the requirements and specifications for emergency equipment vary greatly throughout the United States and its possessions, it is not possible to establish a set of common standards and guidelines. Therefore, the use of emergency lights and sirens on port safety vehicles should be consistent with local custom and must be in compliance with applicable state laws. In addition, Coast Guard operators of emergency response vehicles must be properly trained and certified as qualified to operate these vehicles as required by state law and Chapter 3–5.3.1, Commandant Instruction Manual 5100.29 (old CG-405).

6–3–5C. Responsibilities

6–3–5C(1) Unit commanding officers shall:

- Evaluate the conditions existing within their zones to determine if the use of emergency lights and sirens is necessary for successful mission performance;

- Insure that emergency lights and sirens meet the requirements of state statute and are in keeping with local custom;

- Insure that operators of emergency response vehicles are trained and certified in accordance with state law and Chapter 3–5.3.1, Commandant Instruction Manual 5100.29;

- Establish procedures governing the use of emergency lights and sirens.

6–3–5C(2) District commanders shall insure that the requirements of this part are carried out.

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CHAPTER 8—EXTERNAL RELATIONS

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PART 8–2—INTERNATIONAL RELATIONS

▼8–2–1. INTRODUCTION.

This part provides a brief description of the Intergovernmental Maritime Consultative Organization (IMCO) and a consolidated list of nations which are parties to international conventions of interest in marine safety activities. Explanations of additional international organizations and activities of concern to the Coast Guard can be found in *Coast Guard Participation in International Affairs* (CG-389).

▼8–2–5. IMCO

8–2–5A. GENERAL

The Coast Guard is actively engaged in the work of IMCO, a specialized agency of the United Nations. Although the charter of IMCO allows it to consider such problems as discriminatory and unnecessary restrictions by governments which affect shipping, as well as other problems relating to ocean transport, it has thus far limited itself to problems of safety at sea, control of pollution from ships, and technical cooperation among governments.

Although the U.S. Department of State has the prime responsibility for establishing U.S. positions in these matters, it looks to the Coast Guard as the agency having trained personnel with technical knowledge in maritime safety and environmental protection activities for effective participation in, and implementation of, international agreements in these specialized fields. The Coast Guard normally furnishes the principal U.S. delegates to the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC) of IMCO, as well as representatives for many of the associated subcommittees. The Coast Guard also provides representatives to the Legal Committee and some of its working groups.

IMCO is composed of seven bodies: the Assembly, the Council, the Maritime Safety Committee, the Marine Environment Protection Committee, the Legal Committee, the Facilitation Committee, and the Committee on Technical Cooperation.

8–2–5B. IMCO ASSEMBLY

The Assembly is the main body of IMCO which must approve most actions taken by the organization. The Coast Guard has furnished the representative, alternate representatives, and advisors on U.S. delegations to Assembly meetings, which are usually held once every two years.

8–2–5C. IMCO COUNCIL

The Council is primarily concerned with nontechnical matters, and acts for the Assembly when the latter is not in session. There are presently twenty-four member nations represented on the Council, including the United States. The Coast Guard furnishes advisors to Council meetings.

8–2–5D. MSC

The Maritime Safety Committee (MSC) handles matters of a technical nature relating to safety. The Coast Guard heads the delegation to these meetings. The Committee is open to all member nations of IMCO. Additionally, nations which are parties to a Committee-related convention will be invited to participate when the Committee is discussing these conventions. Under the Maritime Safety Committee there are eleven subcommittees, to which the Coast Guard furnishes representatives and advisors.

8–2–5E. MEPC

The Marine Environment Protection Committee (MEPC) is the committee responsible for the execution and coordination of all IMCO technical activities relating to the prevention and control of marine pollution from ships. It undertakes activities and dissemination of information regarding such matters as ship design, construction, equipment, operations, the establishment of standards, and pollution

control. Scientific activities such as the evaluation of chemical hazards, determination of water quality criteria, and the development of remedial measures are also deliberated upon. The MEPC also deals with the development and review of all international conventions concerning marine pollution from ships. Membership on the MEPC is open to all member states of IMCO and nations which are parties to the 1973 International Convention for the Prevention of Pollution from Ships. The Coast Guard furnishes representatives and advisors to the MEPC.

8–2–5F. LEGAL COMMITTEE

The Legal Committee deals with both public and private legal aspects of ocean affairs. It has prepared, or contributed to the preparation of, the Brussels 1969 Civil Liability and Intervention Convention on Oil Pollution, the Brussels 1971 International Oil Pollution Fund, and the 1976 International Convention for the Limitation of Shipowners Civil Liability for Maritime Claims. The Legal Committee establishes ad hoc working groups to develop draft conventions when necessary. The Coast Guard furnishes representatives and advisors for Legal Committee meetings, and also sends delegates to international legal conferences.

8–2–5G. FACILITATION COMMITTEE

The Facilitation Committee deals with the economic aspects of international maritime traffic, through the administrative functions of the 1965 Convention on Facilitation of International Traffic. The participants have a common desire to facilitate maritime traffic by simplifying and minimizing the formalities, documentary requirements, and procedures administering the arrival, stay, and departure of ships engaged in international trade. The Research and Special Programs Administration (DPB-40) of the Department of Transportation participates on this committee.

8–2–5H. COMMITTEE FOR TECHNICAL COOPERATION

The Committee for Technical Cooperation performs an advisory function relating to IMCO's program of technical assistance to developing countries, and concerns itself with the review of technical cooperation projects. The Coast Guard provides the alternate representative to this committee, which usually meets twice a year.

▼ *8–2–5I. IMCO STANDARD VOCABULARY*

IMCO Resolution A.380(X), entitled "Standard Marine Navigational Vocabulary," specifies the words and phrases recommended to be used by mariners to avoid or minimize misunderstandings in voice communications. These standard terms are in English. The resolution is a recommended, *not* required guide; however, its use should be encouraged. Copies of the resolution are available through Commandant (G-OSR).

8–2–10. NATIONS WHICH ARE PARTIES TO VARIOUS INTERNATIONAL CONVENTIONS

Plate 8–2–10.1 contains a summary of nations which are parties to various international conventions concerned with international marine safety and pollution activities. The plate will be updated by Commandant (G-AIA) as appropriate. Additional or clarifying information regarding plate 8–2–10.1 may be obtained by contacting Commandant (G-AIA).

Chapter 32 (Inspection and Examination of Foreign Vessels) of this manual contains a summary of each of the conventions listed in plate 8–2–10.1.

(1) Try to be first in informing the local media of the situation and establishing your unit as the focal point for subsequent information.

(2) Be prepared at the scene of the emergency to brief the media reporters when they arrive. This will also give you the means for broadcasting safety information if the need arises.

(3) Speak honestly, candidly, and believably. The conversational approach is best.

(4) Give the impression that you have nothing to hide and are just as concerned about the consequences of the situation as everyone else. Indicate your belief in the public's right to know the facts.

(5) Communicate the Coast Guard's eagerness to minimize disastrous effects.

(6) Do not lie or be defensive.

(7) Do not guess. Speak only to the facts. If unsure of an answer, indicate that it will be investigated and that an answer will be provided when available.

(8) Use non-technical language.

(9) There is no such thing as an "off the record" comment; however, a cooperative media-Coast Guard relationship will foster the opportunity for unreported explanatory remarks.

(10) Answer all questions promptly and in a calm manner, no matter how irrelevant they may appear.

(11) Be aware of the media's deadlines and consider the media's audience.

(12) Discuss officially only your area of concern. Do not "pass the buck."

(13) If confronted with a hostile press, emphasize the positive steps being taken to correct the situation and use facts in attempting to destroy hostility.

In the event of a major incident, the media will attempt to identify the cause. Frequently, conflicting accounts reach the media with the result that the Coast Guard is approached for an "official" reply and an evaluation of the cause. It is extremely difficult to offer a restrained response without seeming to be evasive. Two suggested replies are as follows:

Q. "What really happened, LT Smith?"
A. "Of course, as you know, the matter is under investigation, the purpose of which is to determine all the causes and then to try to remedy the situation. We would prefer not to comment right now and would rather wait until all the facts are in. In the meantime, we urge that anyone who has any information concerning this disaster, please call us at _____. As soon as the investigation is completed, we will make it available."

Q. "It has been said that the Captain was asleep. If so, what will you do to him?"
A. "If from the investigation we learn that there is evidence of negligence on the part of someone under our jurisdiction, we can try to remedy the situation by preferring charges against his right to hold a Coast Guard license. Of course, if there is evidence that a Federal crime has been committed, we will refer the matter to the U.S. Attorney for prosecution. In case the state wishes to prosecute if they have jurisdiction, we will cooperate fully with the state's attorney."

It should be obvious that these pointers do not provide all the thoughts to be considered when dealing with the press. It is impossible to be fully prepared for every press query, especially in emergency situations, but do not attempt to avoid it. The story will still be told, with or without Coast Guard input, and may be inaccurate and even damaging should the COTP or OCMI ignore the media. Do not be unduly alarmed or defensive if the

reporter's version of the event differs from yours. Remember that the bulk of the public is unconcerned with specific details that may be of particular concern to you.

▼8–5–30. PUBLIC INFORMATION EFFORTS DURING MAJOR POLLUTION INCIDENTS

In the event of a major, or potentially major, pollution incident, it is important that the public be provided with prompt and accurate information on the nature of the discharge and what is being done to remedy the situation. If followed, this policy should not only promote public understanding and cooperation for all interested parties, but also check the spread of misinformation and establish your unit as the source of official information. To accomplish this goal, a public information organization has been established in the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 1510 *et seq*). The following guidelines executing such an organization should be followed during major, or potentially major, pollution incidents. Ideally, this concept would be modified and adapted to any significant spill. Although this section discusses pollution incidents, many of the concepts and principles presented may be applied to any incident that is of public interest.

8–5–30A. ON-SCENE NEWS OFFICES

Whenever requested by the predesignated Coast Guard OSC, or by an agency participating on the RRT, a news office will be established on-scene. This office ideally would be the single, or primary, official source of operational information on a pollution incident to avoid release of conflicting or out of date information. Manning of the office shall be in accordance with appropriate regional plans and Coast Guard directives. Any participating agency may, by request to the RRT, place a representative on the staff of the on-scene news office, with the concurrence of the OSC. The news office will, whenever possible, be headed by a representative of the agency providing the OSC. The location of the news office shall be designated by the OSC and normally every effort should be made to locate it at or near the scene of the pollution incident. If a news office (spokesperson or persons) is to fulfill its purpose successfully, it must be an up-to-date, accurate source of good information. In most cases, this can only be achieved when working at the on-scene location of the OSC or his on-scene representative. In some instances, the functions of the news office might be handled by the appropriate Coast Guard district public affairs office. Keeping in mind the effectiveness and benefits of a "single source" of information, regional and local contingency plans for pollution incidents should indicate how the public affairs will be coordinated between the district and unit until an on-scene news office is established.

8–5–30A(1). The director of the on-scene news office shall be responsible for coordinating all public information functions for the OSC and the RRT when necessary. If the RRT, or a senior regional official, insists on holding a news conference or issuing releases regarding an incident, every effort must be made to insure maximum coordination with the on-scene news office and/or OSC staff. The director's functions shall include, but are not limited to:

- Arranging news conferences at which the OSC and other appropriate officials will make progress reports and respond to questions from representatives of the news media;
- Keeping local and regional government officials advised of the pollution situation by contacting members of their press offices or their designated representatives. Meetings with groups of local officials affected by a spill may be of prime importance;
- Keeping news media advised of the status of the response effort and affording them maximum cooperation whenever possible. In some cases, this would include arrangements for media transportation to the scene of a pollution incident and pooling of photographs;
- Preparing and distributing daily news releases as long as news media and public interest warrants;

• Keeping abreast of public reaction to the pollution incident and advising the OSC of any actions that should be taken to better accommodate the public information interests. Public meetings, speaking engagements, etc, while a case is ongoing and interest is high, are extremely valuable for insuring that official information is transmitted to individuals affected by a pollution incident;
• Handling queries from the general public and commercial interests to insure that all questions are dealt with properly and in a timely manner;
• Advising the public as to the proper method for dealing with individual problems and damages associated with the pollution incident.
• If applicable, referring salesmen to technical personnel assigned to the OSC;
• Upon request, offering special public information services for official visitors on behalf of the OSC;
• If necessary, drafting a model letter for participating agencies to use in answering mail inquiries, after the crisis has subsided.

8–5–30A(2). Care must be taken in arranging news conferences to insure that spokespersons for the various agencies assisting the OSC are available to comment on their particular portions of the operations and that each agency's contributions to the response effort are accurately portrayed in news releases. Spokespersons should emphasize the joint-federal agency nature of the response and strive to educate the public as to the organization and responsibility of each agency. On past cases, a scheduled daily briefing for media and other interested persons by the OSC and agency representatives has proven to be extremely valuable for disseminating accurate information as well as reducing OSC staff workload.

8–5–30A(3). The necessity for establishing contacts and a working relationship with the regional press community cannot be overemphasized. It is equally important for public affairs officers to develop liaison with PIO's from other agencies during contingency planning for pollution incidents.

8–5–30B. NATIONAL NEWS OFFICE (NNO)

When the National Response Team (NRT) is activated, the team chairman will direct the agency providing the OSC to detail a professional information officer to establish and direct a national news office in Washington, D.C. Any participating agency may, by request to the NRT chairman, place a representative on the NNO staff. The NNO director is responsible for overall supervision of public information activities of the NRT as they relate to Headquarters (or Washington, D.C.) level aspects of a pollution incident, and should insure the closest possible coordination of information with the on-scene news office. When the NRT is not activated, the OSC and his staff perform the duties of the NNO as necessary.

8–5–30B(1). Duties of the director of the national news office shall include, but are not limited to:

• Providing information and assistance to the White House Press Office, Department of Transportation Office of Public Affairs and Washington press offices for senators and representatives from affected states or districts;
• Arranging news conferences at which the chairman of the NRT, or in some situations the OSC or other informed officials, will make reports and respond to questions from the news media;
• Keeping all appropriate agencies and media press offices advised on the status of those aspects of the pollution incident to which the NRT has responded;
• Insuring that all news releases pertaining to the incident, drafted by any NRT agency, are cleared by the chairman of the NRT and/or the OSC throughout the duration of the incident;
• Issuing a daily status report as the situation warrants.

8–5–30C. PUBLIC INFORMATION ASSIST TEAM (PIAT)

While district and area public affairs staffs have proven most helpful to OSC's in attempting to meet information demands, these staffs are not prepared to handle the task for the extended period of time often required by a major pollution incident. There-

fore, a Public Information Assist Team (PIAT) has been created to assist on-scene coordinators and district and area public affairs staffs in meeting these demands. The PIAT consists of one officer and two petty officers who have been trained in journalism, public relations, photography and who have knowledge of pollution response techniques and equipment, and the laws and regulations relating to pollution incidents. The PIAT is under the operational control of Commandant (G-WER) except while deployed to a pollution incident, at which time they are under the operational control of the OSC, whether Coast Guard, EPA, or some other Federal official. The normal response posture of the PIAT will be a state of readiness that enables at least one member of the team to respond to a case within two hours of notification, with augmentation, if necessary, of one or both of the remaining members within six hours of notification. Operational equipment useful in supporting the news office may be deployed with the team as needed and when not in use on another case. Team members may be requested through Commandant (G-WER-2) at 426–9568(FTS) during office hours, or through the National Response Center any time at 800–424–8802. Use of the PIAT should be given serious consideration should any of the following conditions exist:

- Occurrence of a discharge in an environmentally sensitive area;
- Augmentation with local public affairs personnel is necessary;
- When, in the judgment of the OSC, the specialized knowledge of the PIAT would prove helpful during a particular pollution response effort.

8–5–30C(1). The duties of the PIAT shall include, but not be limited to:

- Response to pollution discharges or threats of discharge, at the request of the OSC or district or area public affairs office, or district (m) staff;
- Provide support, advice and assistance in the handling of public and media relations;
- Assist in setting up the on-scene news office and work to maintain communications with the appropriate government officials;
- Report to the OSC or district or area PAO as appropriate, and notify Commandant (G-APA) of their location and telephone number upon arrival.
- Assist in staffing the National News Office or, if the NRT has not been activated, serve as a center for answering inquiries in Washington, D.C., upon request of the OSC or parent agency.

8–5–30D. ACTION BY DISTRICT COMMANDERS AND OSC'S

District commanders and Coast Guard on-scene coordinators shall:

- Designate knowledgeable individuals as public affairs officers who can serve as media contacts and spokespersons on a full time basis until a news office is established.
- Institute the changes necessary to have on-scene news offices accomplish the duties outlined in this subpart;
- Insure that the public affairs portion of local and regional contingency plans is effectively and sufficiently developed.
- Consider the use of the Public Information Assist Team to help meet the public information demands of pollution incidents and assist in developing the public affairs portion of local and regional contingency plans;
- Maintain a working relationship and familiarity with reporters and media in their areas of responsibility.

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CHAPTER 10—INFORMATION AND DATA SYSTEMS

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10–17–15 . . . . . .Message Request and Format
10–17–20 . . . . . .Action
10–17–25 . . . . . .Reports of Use

Part 10–18 . . . . . .Automated Mutual Assistance Vessel Rescue System (AMVER)
10–18–1 . . . . . .General
10–18–5 . . . . . .AMVER Boardings

▼ PART 10–16. SPILL CLEANUP EQUIPMENT INVENTORY SYSTEM (SKIM)

10–16–1. GENERAL

The Spill Cleanup Equipment Inventory System (SKIM) is a data base management information system designed to provide listings of spill containment and removal equipment for use by persons responding to pollution incidents.

10–16–5. DISCUSSION

10–16–5A. BACKGROUND AND AUTHORITY

The identification of stocks of pollution abatement equipment to allow for efficient, coordinated, and effective action to minimize damage from oil discharges was established as one of the objectives of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 1510). Emphasis was added to that objective by the March 17, 1977 Presidential Initiatives which announced a group of interrelated measures designed to reduce the risk of oil spills associated with marine transportation. In response to these requirements, the SKIM system was developed. Its programs allow interactive use with dataphone terminals to allow information regarding the availability of response equipment in a particular area to be immediately accessable at the user level. When accessing SKIM, the procedures outlined in the user's manual should be followed.

10–16–5B. PROGRAMS

10–16–5B(1). Program A. This provides listings of equipment by MSO/COTP, Coast Guard district, or EPA region. These listings are intended to be used by On Scene Coordinators for several purposes:

- As updated annexes to local and regional contingency plans;
- For updating, to check that information that has been entered is correct and complete;
- As informational aids for MSO/COTP, district and Headquarters managers, and Regional Response Team members.

10–16–5B(2). Program B. This provides listings of equipment by distance from a location input. In this program, the user can input the coordinates of a spill in latitude and longitude and a desired range in nautical miles. The program will generate a list of all equipment of the specified type(s) that is located within the given range of the spill location, and will also indicate the calculated distance of the equipment from the spill. This type of information is particularly useful, both as an informational aid when the spill occurs and when the on-scene coordinator (OSC) is in need of equipment that is located closest to the spill.

10–16–5B(3). Program C. This is an update program through which users can update data in SKIM as changes become known. Inventory forms should be used by field terminal operators for their reference when entering or changing data via the terminal. (See subpart 10–16–15 for instructions on completing inventory forms.)

10–16–5B(4). Program D. This provides a list of inventory identification numbers. These are listed only by MSO/COTP and not by Coast Guard district or EPA region, since a particular entry in SKIM is uniquely identified by a combination of both the MSO/COTP code and the assigned identification number. The list also gives the organization name and trade name of the equipment and can be used for two primary purposes:

- To correctly identify the proper identification number associated with a specific piece of equipment;
- To determine the identification numbers already being used. A new record in the data base must be assigned a new number.

10–16–10. SPILL CLEANUP EQUIPMENT INVENTORY (RCS-G-WEP-14023)

Semiannual updating is required for each MSO/COTP area and will be performed by field

terminal operators utilizing SKIM program "C". Additionally, further updating is to be accomplished as the need becomes evident. When gathering data for updating, emphasis should be placed on chemical spill equipment as well as oil spill equipment. (See section 10–16–15H for additional information on chemical spill equipment inventory.)

10–16–15. INSTRUCTIONS FOR COMPLETING SPILL CLEANUP INVENTORY FORMS

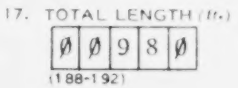
10–16–15A. GENERAL

Plates 10–16–15.1 through 10–16–15.17 are samples of Spill Cleanup Inventory Forms (CG-5124 series). These forms, available through Supply Center, Brooklyn, were prepared to enable the data gathering individual to complete the form with minimum need for reference to instruction. A few general guidelines and the MSO code for item 6 of the form are necessary

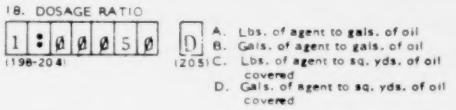
10–16–15B. INVENTORY SHEETS

10–16–15B(1). The inventory sheets use fill-in-the-blank and coded response items. Both are self-explanatory except for item 6. The three-letter entry for item 6 must be selected from the listing in section 10–16–15I. In general, numeric entries should be made "right-justified" and "zero-filled"(i.e., if they do not fill all the spaces provided, they should be entered as far to the right as possible with zeros filled to the left). Examples are:

- If the total length of a particular boom is 980 feet, block 17 on the inventory sheet for booms (plate 10–16–15.1) should be filled in as:



- If one gallon of a surface collecting agent can be effectively applied to a surface area of 50 square yards of oil, block 18 (Dosage Ratio) on the inventory form for Surface Collecting Agents (plate 10–16–15.5) should be filled in as:


18. DOSAGE RATIO
1 : Ø Ø Ø 5 Ø
(198-204)
D
(205)
A. Lbs. of agent to gals. of oil
B. Gals. of agent to gals. of oil
C. Lbs. of agent to sq. yds. of oil covered
D. Gals. of agent to sq. yds. of oil covered

10–16–15B(2). All alphabetic characters should be capitalized. The numbers "zero," "one," "two," "five," and "six" should be entered as "Ø," "1," "2," "5," and "6" to distinguish them from the letters "oh," "eye," "zee," "ess," and "gee" which should be entered as "O," "I," "Z", "S," and "G", due to similarities on terminal keyboard type.

10–16–15C. SPECIAL EQUIPMENT

Booms have been divided into the following two categories:

- Heavy-duty/Offshore Boom
- River/Harbor Boom

The selection of a category for each boom must be indicated in item 1 on the boom inventory sheet (plate 10–16–15.1). Normally, the manufacturer trade name is descriptive enough to determine this choice. For those cases where doubt may exist, list with River/Harbor Boom any boom less than one meter high, *or* that weighs less than ten pounds per foot, *or* has a draft to freeboard ratio less than 2:1. In addition, three other equipment forms have been divided into several categories, which are:

- Pumps, Hoses, Self-Contained Transfer/Lightering Systems (plate 10–16–15.7)
- Barges, Tank Ships, Rubber Bladders (plate 10–16–15.10)
- Other Equipment or Materials (plate 10–16–15.17)

In all cases where multiple options exist (i.e. item 1 has been left blank), the specific type of cleanup equipment should be indicated by placing the appropriate character in item 1 of the form.

10–16–15D. IDENTIFICATION NUMBERS AND ALPHA CHARACTERS

Each reporting unit shall assign an identification number in item 2 of the form for each piece of equipment or group of identical units reported on a single report sheet. Any number assigned should *not* be used again by that unit to identify other equipment within this system. For each Coast Guard unit, the numbering system will begin with "ØØØ1" for the first piece of equipment inventoried, and then ascend for the next item inventoried regardless of equipment type. This will facilitate accurate changes to the inventory data at a later date. Reporting agencies other than Coast Guard units are asked to designate alpha characters to block 2 of the forms and begin numbering with "ØØØ1" in blocks 3 through 6.

Designated Alpha Characters

A – Department of Agriculture
C – Department of Commerce
D – Department of Defense
E – Environmental Protection Agency
I – Department of the Interior

For example, the Department of Defense should identify its fourth reported piece of equipment as:

2. IDENTIFICATION NO.

D	Ø	Ø	Ø	4

(2-6)

10–16–15E. MULTIPLE TYPES OF EQUIPMENT

If a single source has multiple types of equipment, then items 3 through 12 need not be completed for each type of equipment. The block before item 3 must be checked and the data gatherer may go directly to item 13. All inventory forms with identical information for items 3 through 12 must then be stapled together.

10–16–15F. CORRECTING FILE DATA

When correcting data in the file, complete items 1 through 6 (with item 4 filled in "B" – correct data in file). Then add only those items from item 13 which are to be corrected or added. To delete an item, again complete items 1 through 6, fill in item 4 "C", and all items for that ID number will be deleted from the inventory.

10–16–15G. ENTERING LOCATION

Provide the location in latitude and longitude to the nearest minute as:

14. LOCATION *(latitude and longitude)*

2	8	5	3	N	Ø	9	Ø	Ø	1	W

(168-178)

Do not leave this block blank. The computer cannot locate the equipment without at least approximate coordinates to go by.

10–16–15H. EQUIPMENT TO BE LISTED

In collecting data, only information on equipment that has a potential use in spill removal operations is desired. Most of the classifications have names that identify equipment obviously dedicated to oil spill containment and removal. However, emphasis should also be placed on chemical spill equipment. Special attention should be given to gathering data on analytical laboratories, industrial hygienists, and toxicologists. Titles of equipment categories (S) and (Y) have been changed in the computer to facilitate entry of this data. Analytical laboratories should be included in category (Y), now titled "Equipment for Scientific Analysis or Laboratory Facilities." Indus-

trial hygienists and toxicologists should be included in category (S), now titled "Safety Equipment, Clothing, or Specialists."

10-16-15I. MSO/COTP CODES

The following codes should be entered, as applicable, in item 6:

BOS - Boston, MA
PRO - Providence, RI
POM - Portland, ME
SLM - St. Louis, MO
PAD - Paducah, KY
CIN - Cincinnati, OH
MIN - Minneapolis, MN
HUN - Huntington, WV
LOU - Louisville, KY
MEM - Memphis, TN
NAS - Nashville, TN
PIT - Pittsburgh, PA
ALB - Albany, NY
NYC - New York, NY
NLO - New London, CT
PHI - Philadelphia, PA
NHA - New Haven, CT
BAL - Baltimore, MD
HMR - Hampton Roads, VA
WNC - Wilmington, NC
JAC - Jacksonville, FL
SAV - Savannah, GA
CHA - Charleston, SC
KWE - Key West, FL
MIA - Miami, FL
GUA - Guam
TAM - Tampa, FL
SJP - San Juan, PR
NEW - New Orleans, LA
COR - Corpus Christi, TX
PAT - Port Arthur, TX
HOU - Houston, TX
GAL - Galveston, TX
MOB - Mobile, AL
SSM - Sault Ste. Marie, MI
BUF - Buffalo, NY
CHI - Chicago, IL
STB - Sturgeon Bay, WI
CLE - Cleveland, OH
DET - Detroit, MI
DUL - Duluth, MN
MIL - Milwaukee, WI
MUS - Muskegon, MI
TOL - Toledo, OH
LOS - Los Angeles/Long Beach, CA
SDC - San Diego, CA
SFC - San Francisco, CA
HUM - Humboldt Bay, CA
MRY - Monterey, CA
POR - Portland, OR
SEA - Seattle, WA
HON - Honolulu, HI
ANC - Anchorage, AK
JUN - Juneau, AK
VAL - Valdez, AK

PLATE 10 16-15.1

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS-G-WEP-14023

HEAVY DUTY OFFSHORE BOOM OR RIVER/HARBOR BOOM AND FENCING

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE (1)
A. Heavy duty offshore boom
B. River harbor boom

2. IDENTIFICATION NO. (2-6)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE (7-12)
MO. | DAY | YR.

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION *(latitude and longitude)* (168-179) N W

15. NUMBER OF UNITS (180-182)

16. LENGTH PER UNIT *(ft.)* (184-186)

17. TOTAL LENGTH *(ft.)* (188-192)

18. FREEBOARD *(in.)* (194-195)

19. DRAFT *(in.)* (197-198)

20. CURRENT OPERATING LIMIT (199)
A. Less than 0.5 knots
B. Between 0.6-1.0 knots
C. Between 1.1-1.5 knots
D. Over 1.5 knots

21. SEA STATE OPERATING LIMIT (200)
A. Less than 1 ft.
B. Between 1-3 ft.
C. Between 3-5 ft.
D. More than 5 ft.

22. OTHER CHARACTERISTICS (e.g. temperature limits, resistence to chemical attack, special handling considerations, etc.) (201-215)

23. AUXILIARY EQUIPMENT (mooring equipment, towing bridles etc.) (221-245)

SN-7530-01-GF2-6010

PLATE 10-16-15.2

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-1 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS-G-WEP-140 23

SKIMMER

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [C] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. DAY YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION *(latitude and longitude)* (168-178) N W

15. NUMBER OF UNITS (180-182)

16. SIZE (183)
A. Greater than 1 ton
B. 200 lbs. to 1 ton
C. Less than 200 lbs.

17. METHOD OF PICKUP (184)
A. Weir
B. Belt
C. Disc
D. Vortex

18. RECOVERY CAPACITY (gpm) (186-189)

19. USE (191)
A. Harbor
B. Open water
C. Fast current

20. POWER (192)
A. Self-propelled
B. Towed

21. SPEED (knots) (195-196)

22. DRAFT FT. (198-199) IN. (200-201)

23. ONBOARD STORAGE CAPACITY (BBLS.) (204-209)

SN-7530-01-GF2-6020

PLATE 10-16-15.3

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5124-2 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS-G-WEP-14023

SORBENT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [D] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR MANUFACTURER NAME AND TYPE OR MODEL NUMBER (133-167)

14. LOCATION *(latitude and longitude)* [N] [W] (168-178)

15. NUMBER OF UNITS (180-182)

16. UNIT WEIGHT (lbs.) (184-186)

17. TOTAL WEIGHT (lbs.) (188-192)

18. TYPE (193)
A. Synthetic
B. Vegetable
C. Minerals

19. FORM (194)
A. Bag
B. Bales
C. Loose
D. Net
E. Rolls
F. Sheets
G. Other

20. APPLICATION RATIO (lbs. of sorbent to lbs. of oil) [:] (195-199)

SN-7530-01-GF2-6030

PLATE 10-16-15.4

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-3 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS-G-WEP-14023

DISPERSANT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT [E] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) [ ] N [ ] W

15. NUMBER OF UNITS (180-182)

16. UNIT WEIGHT OR VOLUME (185-187) (188)
A. Pounds
B. Gallons

17. TOTAL WEIGHT OR VOLUME (191-194) (195)
A. Pounds
B. Gallons

18. DOSAGE RATIO (198-204) (205)
A. Lbs. of dispersant to gals. of oil
B. Gals. of dispersant to gals. of oil
C. Lbs. of dispersant to sq. yds. of oil covered
D. Gals. of dispersant to sq. yds. of oil covered

19. REQUIRES AGITATION AFTER APPLICATION (206)
A. Yes, requires mixing
B. No, self mixing

20. EPA ACCEPTANCE (207)
A. Yes
B. No

SN-7530-01-GF2-6040

PLATE 10-16-15.5

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5124-4 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

SURFACE COLLECTING AGENT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 5 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [F] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) [ ][ ][N][ ][ ][ ][ ][ ][W]

15. NUMBER OF UNITS (180-182)

16. UNIT WEIGHT OR VOLUME (185-187) (188)
A. Pounds
B. Gallons

17. TOTAL WEIGHT OR VOLUME (191-194) (195)
A. Pounds
B. Gallons

18. DOSAGE RATIO (198-204) (205)
A. Lbs. of agent to gals. of oil
B. Gals. of agent to gals. of oil
C. Lbs. of agent to sq. yds. of oil covered
D. Gals. of agent to sq. yds. of oil covered

19. EPA ACCEPTANCE (206)
A. Yes
B. No

SN-7530-01-GF2-6050

PLATE 10-16-15.6

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-S (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

BIOLOGICAL AGENT

THIS REPORT IS AUTHORIZED BY 40 CFR 130. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [G] (1)

2. IDENTIFICATION NO (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) N W

15. NUMBER OF UNITS (180-182)

16. UNIT WEIGHT OR VOLUME (185-187) (188)
A. Pounds
B. Gallons

17. TOTAL WEIGHT OR VOLUME (191-194) (195)
A. Pounds
B. Gallons

18. Intended geographical use expressed in water temperature parameters (degrees celsius) (198-204)

19. USE LIMITED TO (205)
A. Fresh water
B. Brackish water
C. Salt water
D. Fresh and brackish water
E. Brackish and salt water
F. All waters

20. DOSAGE RATIO (208-214)

(215)
A. Lbs. of agent to gals. of oil
B. Gals. of agent to gals. of oil
C. Lbs. of agent to sq. yds. of oil covered
D. Gals. of agent to sq. yds. of oil covered

21. EPA ACCEPTANCE (216)
A. Yes
B. No

22. COMMENTS (method of deployment, etc.) (217-230)

SN-7530-01-GF2-6060

PLATE 10-16-15.7

DEPARTMENT OF TRANSPORTATION OF U. S. COAST GUARD
CG-5124-6 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

PUMPS, HOSES, SELF CONTAINED TRANSFER/LIGHTERING SYSTEMS

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE
H. Self contained transfer/lightering systems (pumps, hoses and storage)
I. Pumps only OR pumps and hoses
J. Hoses only
(1)

2. IDENTIFICATION NO. (2-4)

ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. DAY YR. (7-12)

4. TYPE ENTRY
A. Add data to file
B. Correct data in file
C. Delete data from file
(13)

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR
A. Contractor
B. Private Company
C. Cooperative
D. Government
(21)

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) N W (168-179)

15. NUMBER OF UNITS (180-182)

16. UNIT WEIGHT (lbs.) (185-189)

17. TOTAL WEIGHT (lbs.) (192-196)

18. PUMPING CAPACITY (gpm) (198-202)

19. STORAGE (gals.) (205-209)

20. PRIME MOVER
A. Gasoline
B. Diesel
C. Batteries
D. AC
E. DC
(210)

21. HOSE FITTING SIZE ON PUMP (in.) (212-216)

22. NO. OF HOSES CONNECTED TO PUMP (218)

23. MAXIMUM PUMPING HEAD (ft.) (220-222)

24. EXPLOSION PROOF PUMP
A. Yes
B. No
(224)

25. HOSE SIZE (in.) (226-230)

26. TOTAL LENGTH OF HOSE (ft.) (232-235)

SN-7530-01-GF2-6070

PLATE 10-16-15.8

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-7 (11-77)

SPILL CLEAN INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS-G-WEP-14023

VACUUM/PUMPER TRUCK

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [K] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. DAY YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) N W

15. NUMBER OF UNITS (180-182)

16. STORAGE CAPACITY PER UNIT (gals.) (186-189)

17. PUMPING CAPACITY (gpm) (192-195)

SN-7530-01-GF2-6080

PLATE 10-16-15.9

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-8 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

BEACH CLEANUP EQUIPMENT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [L] (1)

2. IDENTIFICATION NO. (2-6)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) [N] [W] (168-178)

15. NUMBER OF UNITS (180-182)

16. COMMENTS (184-225)

SN-7530-01-GF2-6090

PLATE 10-16-15.10

DEPARTMENT OF TRANSPORTATION U. S. COAST GUARD CG-5124-9 (11-77)	SPILL CLEANUP INVENTORY *(Use typewriter or pen)*	Form Approved OMB No. 004-R5717 RCS G-WEP-14023

BARGES, TANKSHIPS, RUBBER BLADDERS

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS

GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE (1)
   - M. Barge
   - N. Tankship
   - O. Rubber bladder

2. IDENTIFICATION NO. (2-6)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE (7-12) — MO. | DAY | YR.

4. TYPE ENTRY (13)
   - A. Add data to file
   - B. Correct data in file
   - C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
   - A. Contractor
   - B. Private Company
   - C. Cooperative
   - D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121) PHONE - NIGHT *(area code & no.)* (122-132)

13. DESCRIPTION (Examples 38 × 45 ft. Hopper Barge, 25 × 30 ft. Vacuum Barge, etc.) (133-167)

14. LOCATION (latitude and longitude) (168-178) N W

15. NUMBER OF UNITS (180-182)

16. PUMPING CAPACITY (gpm) (185-188)

17. DRAFT-LOADED (ft.) (190-191)

18. DRAFT-UNLOADED (ft.) (193-194)

19. STORAGE CAPACITY (gals.) (196-202)

20. AUXILIARY EQUIPMENT-CRANES (Include safe or working load) (203-244)

SN-7530-01-GF2-6100

PLATE 10-16-15.11

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-10 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
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RCS G-WEP-14023

BOAT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS

GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [P] (1)

2. IDENTIFICATION NO. (2-6)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. DAY YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude [N] [W] (168-178)

15. NUMBER OF UNITS (180-182)

16. LENGTH (ft.) (184-186)

17. DRAFT (List only for boats over 65 ft.) (188-189)

18. HORSEPOWER (192-195)

19. PROPULSION (196)
A. Outboard
B. Inboard (single screw)
C. Inboard (twin screw)
D. Inboard/outboard
E. Jet
F. Other

SN-7530-01-GF2-6110

PLATE 10-16-15.12

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-11 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

AIRCRAFT (Heavy Equipment Transport/Spray/Photo/Electronic Recon - only)

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS

GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [Q] (1)

2. IDENTIFICATION NO. (2-4)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE — MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) N W (168-178)

15. NUMBER OF UNITS (180-182)

16. PASSENGER CAPACITY (184-186)

17. CARGO CAPACITY (lbs.) (189-193)

18. External Load Lifting Capability helicopters only (lbs.) (195-199)

19. AIR SPRAYING CAPABILITY (200)
A. Yes
B. No

20. Towing Capability (201)
A. Yes
B. No

21. PhotoReconnaissance Capability (202)
A. Yes
B. No

22. Infra-Red Capability (203)
A. Yes
B. No

23. Side Looking Radar Capability (204)
A. Yes
B. No

SN:7530-01-GF2-6120

PLATE 10-16-15.13

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-12 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-140 23

COMMUNICATIONS EQUIPMENT

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS

GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [R] (1)

2. IDENTIFICATION NO. [ ] (2-4)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. [ ] (7-12)

4. TYPE ENTRY [ ] (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT [ ] (14-15)

6. MSO COTP [ ] (16-18)

7. EPA REGION [ ] (19-20)

8. SECTOR [ ] (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME [ ] (22-56)

10. ADDRESS (street) [ ] (57-73) (city) [ ] (74-86) (state) [ ] (87-88) (zip code) [ ] (89-93)

11. CONTACT NAME [ ] (94-110)

12. PHONE - DAY (area code & no.) [ ] - [ ] (111-121)

PHONE - NIGHT (area code & no.) [ ] - [ ] (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION [ ] (133-167)

14. LOCATION (latitude and longitude) [ ] N [ ] W (168-178)

15. NUMBER OF UNITS [ ] (180-182)

16. TYPE [ ] (183)
A. SSB
B. AM
C. FM
D. CB
E. UHF
F. VHF

17. Primary Working Frequency or Channel Number [ ] (187-196)

18. POWER SOURCE [ ] (199)
A. Battery pack
B. AC
C. DC

19. RANGE (miles) [ ] (201-203)

20. RADIO CALL SIGN [ ] (205-216)

SN-7530-01-GF2-6130

PLATE 10-16-15.14

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-13 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-1402 2)

SAFETY EQUIPMENT OR SPECIAL CLOTHING

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS

GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [S] (1)

2. IDENTIFICATION NO. (2-4)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE — MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS (street) (57-73) (city) (74-86) (state) (87-88) (zip code) (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY (area code & no.) (111-121)

PHONE - NIGHT (area code & no.) (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) N W (168-178)

15. NUMBER OF UNITS (180-182)

16. COMMENTS (184-225)

SN-7530-01-GF2-6140

PLATE 10-16-15.15

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-14 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

GENERATOR

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [T] (1)

2. IDENTIFICATION NO. (2-4)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. DAY YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) N W

15. NUMBER OF UNITS (180-182)

16. POWER OUTPUT (kilowatts) (185-190)

17. NUMBER OF OUTLETS (192-193)

18. AVAILABLE EXTENSION CABLE (ft.) (195-198)

19. EXPLOSION PROOF LIGHTS (watts) (201-203)

20. POWER REQUIREMENTS (204)
A. Gasoline
B. Diesel
C. Batteries
D. AC
E. DC
F. Other

SN-7530-01-GF2-6150

PLATE 10-16-15.16

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-15 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

DISPOSAL FACILITY

THIS REPORT IS AUTHORIZED BY 40 CFR 130. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE [U] (1)

2. IDENTIFICATION NO. (2-6)

[ ] ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE MO. | DAY | YR. (7-12)

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121)

PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) [ ][ ][ ][N][ ][ ][ ][ ][W] (168-178)

15. NUMBER OF UNITS (180-182)

16. TYPES OF OIL OR HAZARDOUS CHEMICALS ACCEPTED (184-225)

17. CAPACITY (gals.) (226-232)

18. TYPE OF SITE (233)
A. Permanent
B. Temporary

SN-7530-01-GF2-6160

PLATE 10-16-15.17

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5124-16 (11-77)

SPILL CLEANUP INVENTORY
(Use typewriter or pen)

Form Approved
OMB No. 004-R5717
RCS G-WEP-14023

OTHER EQUIPMENT OR MATERIALS

THIS REPORT IS AUTHORIZED BY 40 CFR 150. CIVILIANS ARE NOT REQUIRED TO RESPOND, HOWEVER, YOUR CONSIDERATION IS NEEDED TO MAKE THE RESULTS OF THIS SURVEY COMPREHENSIVE, ACCURATE, AND TIMELY.

INSTRUCTIONS
GENERAL INSTRUCTIONS AND THE CODES FOR BLOCKS 6 ARE CONTAINED IN COMDTINST. 16465.9

1. EQUIPMENT TYPE (1)
V. Chemical agent (other than dispersant
W. Burning agent
X. Equipment for working in icing conditions (steam generators clamshell cranes, etc.)
Y. Equipment for scientific analysis
Z. Other

2. IDENTIFICATION NO. (2-6)

☐ ITEMS 3 THROUGH 12 SAME AS COVER SHEET

3. DATE (7-12) MO. DAY YR.

4. TYPE ENTRY (13)
A. Add data to file
B. Correct data in file
C. Delete data from file

5. COAST GUARD DISTRICT (14-15)

6. MSO/COTP (16-18)

7. EPA REGION (19-20)

8. SECTOR (21)
A. Contractor
B. Private Company
C. Cooperative
D. Government

9. ORGANIZATION NAME (22-56)

10. ADDRESS *(street)* (57-73) *(city)* (74-86) *(state)* (87-88) *(zip code)* (89-93)

11. CONTACT NAME (94-110)

12. PHONE - DAY *(area code & no.)* (111-121) PHONE - NIGHT *(area code & no.)* (122-132)

13. MANUFACTURER TRADE NAME OR DESCRIPTION (133-167)

14. LOCATION (latitude and longitude) (168-178) N W

15. NUMBER OF UNITS (180-182)

16. COMMENTS (Number of samples that can be run per day, etc.) (184-225)

(226-245)

SN-7530-01-GF2 6170

▼ PART 10–17—POLLUTANT SPILL TRAJECTORY FORECASTING SERVICE

10–17–1. PROGRAM OBJECTIVE. The objective of the Pollutant Spill Trajectory Forecasting Service is to provide an operational system to facilitate the Coast Guard mission responsibilities in Marine Environmental Protection. This service will provide operational commanders with an accurate forecast of surface pollutant movement to aid the planning and deployment of resources used for surveillance and cleanup and assist in the assessment of environmental impact of pollution incidents.

10–17–5. DISCUSSION.

10–17–5A. The need for the Coast Guard to have an operational pollutant spill trajectory forecasting service has been highlighted in a number of cases. The accurate prediction of the path which spilled oil or other surface pollutant will take during an incident will assist the On-Scene-Coordinator with deploying cleanup resources in the most timely and effective manner.

10–17–5B. The Coast Guard R&D Center and the Oceanographic Unit have prepared models of the sea currents in specific harbors and the open ocean. The Oceanographic Unit is prepared to respond to requests from the field for operational trajectory forecasts of spills in both high seas and coastal areas for which the sea current patterns have already been developed. These areas include all ocean regions and the U.S. coastal zone over the continental shelf in the Atlantic ocean, Gulf of Mexico, Pacific ocean and Gulf of Alaska.

10–17–5C. The Pollutant Spill Trajectory Forecast Service is intended to provide an accurate prediction of the movement of surface pollutants for up to 48 hours at a time. The Oceanographic Unit may be able to assist MSOs and others with special problems relating to pollution movement whether confined to the surface or not. One particular application of the Oceanographic Unit trajectory models may be to determine the source location of a mystery spill. This "hindcasting" capability may be used by MSOs/COTPs in conjunction with known vessel tracklines to determine the most likely suspect for a mystery spill thereby limiting the number of vessels from which samples for analysis must be taken. Field units requiring forecast/"hindcast" information are encouraged to contact the Oceanographic Unit by telephone (FTS 426–4642). Much of the detail of operational forecast services may be handled by telephone; however, *formal requests for services should be made by message.*

10–17–10. DATA REQUIRED.

10–17–10A. The Pollutant Spill Trajectory Forecasting Service can provide the National Response Center (NRC), areas, districts, MSOs, COTPs and OSCs with a prediction of the speed, direction, area covered and limits of surface pollutants. The models used to predict this movement are sensitive to various input variables and the accuracy of the forecast is directly dependent on the quality of the environmental data provided to CG OCEANO. For this reason, it is incumbent upon users to gather accurate on-scene data and provide the most reliable wind forecast available for the incident scene. In most cases, the OSC will have access to a direct source of data such as the National Weather Service (NWS), Army Corps of Engineers, Fleet Ocean Centers, local meteorological offices and on-scene units.

10–17–10B. Local knowledge of the area will often be of paramount importance in screening environmental data for accuracy and in providing specific data, such as tidal current values for an exact area.

10–17–10C. Plate 10–17–10.1 lists the environmental data which are required by CG OCEANO to initiate a pollutant spill trajectory forecast. Any information which is required for the forecast but can not be supplied by the user will be extracted by the Oceanographic Unit from general sources, *i.e.*, current atlases, weather forecasts or tide tables but

the quality of the trajectory forecast may be adversely affected.

10–17–15. MESSAGE REQUEST AND FORMAT

Requests shall be made by PRIORITY message to CG OCEANO WASHINGTON DC. All initial environmental data called for in Plate 10–17–10.1 should be provided in the message request for service by the MSO or COTP. If only limited data are available but conditions dictate that a forecast is needed, the request message should be sent with as much data as are known. The message should indicate that the data are estimated or not known.

10–17–15A. No specific format is prescribed for the request message. The below information is required as a minimum: (Plate 10–17–15.1 contains a sample request message.)

(1) Environmental data from Plate 10–17–10.1.

(2) Type of pollutant substance (crude oil, number 2 fuel oil, chemical waste, acid, etc).

(3) Observed position of the spill – preferably by location of the boundaries at several points. Location of the point source, including whether or not it is still productive, and location of the leading edge are desired.

(4) Time of the spill – list known or estimated time of the initial spill and the time for which a forecast is desired.

(5) Volume of spill – the actual spilled volume if known or a reasonable estimate can be made, otherwise specify the area covered and observed characteristics of thickness (color, estimated thickness).

(6) Name and telephone number of the cognizant individual as a point of contact for follow-up information by CG OCEANO.

10–17–15B. The requirement for service shall be terminated by message.

10–17–20. ACTION.

10–17–20A. District commanders and commanding officers of units involved in marine environmental protection duties shall become familiar with the provisions of this section, and shall utilize the Pollutant Spill Trajectory Forecasting Service when deemed appropriate by the OSC. Requests for this service shall be submitted in accordance with this section.

10–17–20B. The appropriate district, MSO or COTP, acting as OSC for the case shall initiate the request for forecast services. Secondary users should be included as INFO ADDEES on message traffic.

10–17–20C. The Coast Guard Oceanographic Unit will respond to initial requests for a trajectory forecast within six hours of receipt of a message request. The trajectory forecast service will be maintained continuously as required by the user although the response time for updating the forecasting will vary with each case.

10–17–25. REPORTS OF USE.

It is desired that users of the Pollutant Spill Trajectory Forecast Service provide comments to CG OCEANO on the accuracy and usefulness of this service. These remarks may be included in a message terminating the request for services or by separate letter.

PLATE 10-17-10.1

POLLUTANT SPILL TRAJECTORY FORECAST
REQUIRED ENVIRONMENTAL INFORMATION

Location of Spill	Wind Speed & Direction	Tide	River Run Off	Forecast Wind
OCEANIC	X			X
COASTAL SHELVES	X	X		X
GULF OF MEXICO	X			X
GULF OF ALASKA	X			X
PORTS & INLETS	X	X	X	X

Wind Speed and Direction. The observed wind on-scene should be reported to ± 5 knots and ± 10 degrees. For small spills or initial conditions, one observation at the geographic center of the spill is sufficient. For large spills where wind conditions may vary over the area, several representative locations should be reported.

Tide. For enclosed or semi-enclosed basins, indicate the time of the preceeding high or low tide at the location of the spill. Tidal current values (speed and direction) should be provided if they are known to be significant at the location of the spill. Current velocities less than 0.1 knots can be considered insignificant.

River Run-Off. Report river run-off in terms of velocity or volume and cross sectional area for major rivers in inlet or port areas. Run-off is largely seasonal and its effects are felt by the surface layers of the water column.

Forecast Wind. For all areas, report the most accurate wind prognosis available over the affected area. The forecast wind should be cross checked with as many forecasts as are available to determine the most accurate information. These data may reflect local knowledge (such as diurnal winds) which may not appear in general weather forecast of a regional scale. Forecast winds should cover the period for which the Pollutant Spill Trajectory Forecast is desired.

PLATE 10-17-15.1

SAMPLE MESSAGE REQUEST FOR
OIL TRAJECTORY FORECAST

P 191145Z JUL 80

FM MSO SAN FRANCISCO

TO COGARD OCEANO WASHINGTON DC

INFO COMDT COGARD WASHINGTON DC

COMPACAREA SAN FRANCISCO CA

CCGDTWELVE SAN FRANCISCO

CCGDELEVEN LONG BEACH CA

CCGD THIRTEEN SEATTLE WA

BT

UNCLAS

REQUEST FOR OIL SPILL TRAJECTORY FORECAST

1. REQ TRAJECTORY FCST FOR NR2 F.O. SPILL CENTERED 36-30N 123-10W. EST 125,000 GALS FM RUPTURED TANKER M/V OIL MERCHANT. TIME OF SPILL 1030Z. SPILL LIMITS AT 191135Z JUL NW 36-32N 123-11W, NE 36-32N 123-08W, S 36-25N, 123-10W. EST 2000 GALS/MIN FLOW WITH 100,000 GALS REMAINING ON BOARD.

2. ON SCENE WX: WINDS 010/12 KTS, SEAS 355/4 FT, SWELL 340/6 FT, BARO 30.15 IN. NWS FCST NEXT 48 HRS: WINDS 010/10-15 KTS INCREASING TO 20 KTS BY 191800Z BCKING TO 350 AND INCRSING TO 25 KTS BY 200000Z BCKING TO 270 AT 20 KTS BY 200600Z. DCRSING TO 10 KTS BY 201200Z. WINDS LGT AND VAR FRM 201200Z TO 211200Z.

3. REQ TRAJECTORY FCST TO RUN TO 211200Z JUL 80.

4. POINT OF CONTACT IS LT SMITH, FTS 456-7890.

BT

PART 10–18 – AUTOMATED MUTUAL ASSISTANCE VESSEL RESCUE SYSTEM (AMVER)

▼ 10–18–1. GENERAL

AMVER's mission is to maintain information on positions of commercial vessels for utilization in search and rescue operations. Data on predicted vessel positions and their SAR capabilities are made available to recognized Rescue Coordination Centers of any nation, for use during emergencies at sea. Predicted vessel locations are disclosed only for reasons related to maritime safety.

In order to successfully accomplish AMVER's mission and increase the safety of life and property at sea, the largest plot attainable is desired. AMVER's goal is to obtain a plot which identifies at least 75% of those commercial vessels engaged in offshore activities or coastal voyages of at least 24 hours' duration throughout the world at any time. Achievement of this goal requires an efficient, extensive AMVER communications network and vigorous pursuit of the AMVER educational program at all levels of command.

▼ 10–18–5. AMVER BOARDINGS

AMVER boardings include visits by the district AMVER officer or the COTP/OCMI representative to masters or radio officers of commercial vessels to encourage non-participants to become active AMVER participants, and to maintain contact with vessels which currently participate in the AMVER program. The AMVER boarding is, in most cases, the one instance in which the vessel's master or radio officer has contact with Coast Guard personnel who can answer questions or provide information about AMVER. In this light, such boardings are the most important aspect of the AMVER educational program.

Further information concerning AMVER is available through Commandant (G-OSR) or district AMVER officers.

MARINE SAFETY MANUAL

CHAPTER 12—UNDERWATER SAFETY

CONTENTS

Part 12–1 . . . . . (To be developed)

Part 12–2 . . . . . (To be developed)

Part 12–3 . . . . . (To be developed)

Part 12–4 . . . . . Underwater Safety
12–4–1 . . . . . General
12–4–5 . . . . . Regulatory Background
12–4–10 . . . . . Regulatory Policy For Commercial Diving
12–4–15 . . . . . Inspection and Investigations
12–4–20 . . . . . Dive Medicine

MARINE SAFETY MANUAL

▼ PART 12–4 COMMERCIAL DIVING

12–4–1. GENERAL

12–4–1A. AUTHORITY

Commercial diving exposes individual divers to many hazardous situations that may result in marine casualties, including injuries and deaths. For this reason, the Coast Guard has chosen to exercise its statutory authority to prescribe and enforce standards and regulations in the interest of occupational safety and health during commercial diving operations. These standards and regulations govern diving operations from:

(1) vessels required to have a Certificate of Inspection;

(2) vessels and facilities located in deepwater ports, as defined in 33 CFR 148.3; and

(3) artificial islands, vessels, facilities, installations or devices related to activities on the Outer Continental Shelf.

The pertinent regulations are contained in 46 CFR 197; other essential information and inspection and investigation procedures are presented in this part of the manual as well as in chapters 49 (Underwater Safety) and 72 (Marine Casualty Investigations).

12–4–1B. ACTIVITIES AND SAFETY CONCERNS

Commercial diving includes a very large class of activities, the broad categories of which are listed below:

- Offshore construction and salvage diving.
- Oil-, gas-, and mining-related diving operations.
- Harbor and inland diving such as construction, pipe inspection, salvage, and repair.
- Ship-related diving, for purposes of construction, repair, and hull cleaning.
- All types of commercial fisheries diving, such as for abalone, sea urchin, seaweed harvesting, etc.
- Scientific diving for paid consulting purposes.
- Diving while in professional training.
- Diving in connection with underwater photography, private research, commercial treasure hunting, archaeology, etc.
- Scientific research by persons associated with an academic institution; and
- Government diving operations, including civil and military diving.

The Coast Guard's statutory authority over diving activities is limited, and extends only to commercial diving operations taking place:

(1) at any deepwater port or safety zone thereof as defined in 33 CFR 148.3;

(2) on any artificial island, installation, or other device on the Outer Continental Shelf and the waters adjacent thereto as defined in 33 CFR 147 or otherwise related to activities on the Outer Continental Shelf; and,

(3) from all vessels including MODUS, required to have a Certificate of Inspection issued by the Coast Guard, regardless of their geographic location, or from any vessel connected with a deepwater port or within the deepwater port safety zone, or from any vessel engaged in activities related to the Outer Continental Shelf.

Certain other activities are specifically excluded from Coast Guard jurisdiction:

(1) diving operations conducted for research and development purposes are excluded if they are performed by educational institutions or for the purpose of advancement of diving equipment and technology; and

(2) diving conducted by or under the control of a government agency is exempted if carried out solely for search and rescue or a related public safety purpose.

U.S. underwater diving fatality statistics are compiled and presented in an annual report that is jointly sponsored by the Coast Guard, the National Oceanic and Atmospheric Administration (NOAA), and the National Institute for Occupational Safety and Health (NIOSH). Based on statistics gathered for the period 1970–1976, there are typically 130–180 nonprofessional underwater fatalities each year, only 10–20 of which are occupational in nature, and only 1 to 3 of which may fall under Coast Guard regulatory authority. Diving safety is therefore an area in which the Coast Guard is taking the initiative to improve existing guidelines, establish standards, and set forth safe operating procedures. There is no current need to aggressively enforce these standards given the excellent safety record for commercial diving activities that fall under the Coast Guard's statutory authority. Inspections of opportunity and investigation of casualties are expected to provide adequate levels of surveillance and enforcement.

The vast majority of commercial diving operations under the cognizance of OSHA are within the three-mile limit, are limited by geography to depths less than 100 feet of sea water, and, therefore, are conducted utilizing common air diving equipment and techniques. Conversely, commercial diving activities under Coast Guard jurisdiction, which encompasses the high seas including operations from U.S. inspected vessels worldwide, are not limited by geographical depth considerations. Dives exceeding 1000 feet of seawater can and do take place. Bounce mixed-gas and saturation diving is often used. The more sophisticated equipment and systems and specialized techniques are quite different from those of shallow-air diving operations. The Coast Guard commercial diving regulatory effort had to and must continue to recognize the greater complexity of the engineering, operational, and physiological problems associated with deep-water, open-sea commercial diving operations. Extensive efforts by both the Coast Guard and OSHA were undertaken to make the commercial diving regulations of the separate agencies substantively similar, recognizing a few necessary differences.

The Coast Guard's safety concerns are readily categorized as follows:

(1) persons responsible for safety of diving teams;

(2) equipment standards, availability, maintenance, and readiness;

(3) operations;

(4) specific diving mode procedures;

(5) periodic tests and inspections of diving equipment; and

(6) records.

12–4–5. REGULATORY BACKGROUND

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on 11 August 1975 (46 FR 33681), proposing to amend chapter I of title 46, Code of Federal Regulations (CFR) by adding a new subchapter prescribing marine occupational safety and health standards for vessels and facilities that are under Coast Guard jurisdiction. The Coast Guard proposed to regulate all working conditions and work places under Coast Guard jurisdiction if they were determined to be hazardous to employees, and if the Coast Guard determined that the hazards encountered could be reduced or eliminated by the promulgation of effective regulations. The authority for this regulatory effort was based on provisions of the Outer Continental Shelf

Lands Act and amendments thereto, the Deepwater Ports Act, and the vessel inspection laws.

The Occupational Safety and Health Administration (OSHA), Department of Labor, held an informal fact-finding hearing on commercial diving operations in Washington, D.C. from 11–14 November 1975. The Coast Guard participated in this hearing. On 15 June 1976 OSHA published a 6 month Emergency Temporary Standard (ETS) for commercial diving in the Federal Register. A Memorandum of Understanding (MOU), covering the relationship between OSHA and the Coast Guard during this 6-month period and prior to publication of final Coast Guard regulations for commercial diving, was published with the ETS.

On 15 July 1976 the Coast Guard published an ANPRM in the Federal Register announcing the development of new regulations prescribing occupational safety and health standards for commercial diving in areas of Coast Guard jurisdiction. Public advice and recommendations were invited to assist in the development of regulations. During August 1976, the Coast Guard participated in a public proceeding held by the OSHA Advisory Committee on Construction Safety and Health to discuss materials and information relating to the occupational safety and health aspects of commercial diving operations. On 5 November 1976, OSHA published in the Federal Register a Notice of Proposed Rulemaking (NPRM) and a Notice of Public Hearings to be held 16–17 December 1976. The Coast Guard joined OSHA in these hearings to receive public comments for the Coast Guard on the substance of the OSHA proposed standards.

OSHA published its final commercial diving standard (42 FR 37650) on 22 July 1977. Under section 4(b)1 of the Occupational Safety and Health Act of 1970, the OSHA standards do not apply to those diving operations over which the Coast Guard exercises its statutory authority to prescribe or enforce standards regulations affecting occupational safety and health.

The Coast Guard published a NPRM in the Federal Register on 10 November 1977 for commercial diving operations under Coast Guard jurisdiction. In developing this proposal, the Coast Guard met with members of the National Offshore Operations Industry Advisory Committee (NOOIAC). The recommendations and comments received as a result of the above-mentioned activities were considered in developing the proposed rules. Public comments resulting from the NPRM were taken into account in developing the final rules which were published in the Federal Register, 46 FR 43222, as 46 CFR 197.

The Coast Guard has also been a member of the American National Standards Institute Committee developing standards for commercial diving and the American Society of Mechanical Engineers Committee developing modifications to the ASME Boiler Code relative to pressure vessels for human occupancy (PVHO's). The Coast Guard has maintained liaison in diving matters with other government agencies and major diving companies and will be pleased to continue to serve on any industry-government-labor group or committee, local or national, whose purpose is the development of meaningful standards.

12–4–10. REGULATORY POLICY FOR COMMERCIAL DIVING

The purpose of the Coast Guard's commercial diving regulations, published as 46 CFR 197, is to reduce the hazards and resultant injuries and fatalities during commercial diving activities falling under Coast Guard jurisdiction. In these regulations, equipment standards are cited and promulgated; standards incorporated in the rules are those of the American National Standard Institute (ANSI) and the American Society of Mechanical Engineers (ASME). Availability, specifications and readiness conditions are set forth for equipment such as:

- Air compressor systems.
- Breathing supply hoses.

- First aid and treatment equipment.
- Gauges and timekeeping devices.
- Diving ladders and stages.
- Surface-supplied helmets and masks.
- Diver's safety harnesses.
- Oxygen equipment.
- Pressure vessels for human occupancy (PVHO's).
- Open diving bells.
- Pressure piping.
- Compressed gas cylinders.
- Breathing gas supplies.
- Buoyancy-changing devices.
- Inflatable flotation devices; and
- Other necessary diving equipment.

The regulations require designation of, and specific responsibilities for, a person-in-charge and a diving supervisor. Safe dive procedures are listed, and an operations manual must be prepared and made available to the dive team at the dive location. The operations manual must provide for the safety and health of the divers and must contain safety procedures and checklists, dive team member assignments and responsibilities, equipment procedures and checklists, and emergency procedures.

The regulations also detail specific diving procedures for each mode of diving operations. To insure reliability and readiness of essential equipment, periodic tests and inspections of the equipment are required to be carried out by the diving supervisor. Finally, record-keeping requirements are specified and include necessary entries in logbooks and required reports for casualties.

As has been mentioned in section 12–4–1B, the number of commercial diving casualties in activities falling under Coast Guard jurisdiction has been consistently small, year after year. This attests to the expertise and safety consciousness of this subset, few in number, of commercial divers and the excellent equipment standards and training requirements. The environmental conditions of commercial diving are indeed hazardous, and it is believed that these hazards and attendant consequences can be reduced or eliminated. Because of this, the Coast Guard has published these regulations. It is also believed that prudent care in observing these regulations can reduce and minimize the hazards and the injuries and fatalities they may cause.

Offshore diving is conducted, for the most part, with a sincere concern for safety. While the Coast Guard has not detected any sudden upsurge in the hazard level of diving, there has been a gradual increase in both the depth and complexity of diving in support of the offshore oil and gas industry. This tendency will be accelerated during the next decade as tracts in the Atlantic, Pacific and Alaskan Continental Shelf areas are opened to development. Shortages of diving personnel, combined with the natural hazards associated with diving could lead to a pattern of casualties similar to that experienced in the North Sea, where 24 divers perished between 1971 and 1975.

An analysis of the North Sea casualties reveals that their causes are complex and may not be reducible by simple regulations. For this reason, the Coast Guard did not favor emergency standards in the absence of a thorough review of alternative approaches and participation by all parties concerned. The Coast Guard has instead pursued a program to develop a sound regulatory philosophy and promote effective standards.

12–4–15. INSPECTIONS AND INVESTIGATIONS

The level of casualties, injuries and fatalities in commercial diving that is under Coast Guard jurisdiction does not, at this time, indicate a requirement for special inspections or attention. Inspection of activities and equipment should instead be conducted as part of other scheduled inspections of facilities and vessels under Coast Guard jurisdiction. Such inspections of opportunity should be conducted in accordance with the procedures and checklists contained in Chapter 49 (Inspection of Underwater Equipment and Operations). It is expected that the data so gathered will be useful in monitoring the safety of commercial diving activities, to aid in future regulatory efforts. Increasing inspections and/or their scope or further regulation of these activities may become necessary as a result of:

(a) increased occurrence of diving-oriented marine casualties;

(b) advances in equipment technology, requiring new safety standards and procedures for safe use;

(c) increase in the numbers and type of commercial diving operations; or

(d) an unanticipated decrease in the standards of training for commercial divers.

Investigations are required in the event of a casualty during commercial diving activity that results in a fatality or in an injury which causes either incapacitation for at least 72 hours or hospitilization for at least 24 hours. Investigations shall be conducted in accordance with the procedures set forth in Chapter 72 (Marine Casualty Investigations) of this Manual. A reference of particular value is the U.S. Navy Diving Manual (NAVSHIPS 0994–001–9010, Volumes 1 and 2).

12–4–20. DIVE MEDICINE

One of the better-known hazards of diving is decompression sickness, or "the bends." As the diver goes deeper, his respiratory system and bloodstream are exposed to increased pressures of the gas he is breathing, commonly oxygen, helium, and nitrogen. In dives of extended duration, these gases become dissolved in his tissues. As the diver ascends gradually, the excess nitrogen or helium escapes through the lungs, while the oxygen is absorbed by the body. Rapid ascent may allow the inert gases to form bubbles in the tissues and bloodstream, blocking circulation and causing tissues to swell.

The probability of bubble formation increases with depth and duration of the dive and the speed of ascent. The severity of effect depends on the area of the body where the bubbles are formed. Pain, dizziness, respiratory difficulty, nervous disorders, or death may result.

Another serious hazard to the diver is air embolism. If a diver should unwittingly hold his breath during ascent, the expanding gas may overinflate his lungs, causing leakage of air bubbles into his chest cavity or bloodstream and possibly lead to blockage of blood vessels in the heart or brain. Convulsion, brain damage, or death may result.

Since these afflictions are consequences of gas bubbles in the diver's body, treatment is directed at removing the bubbles or reducing their size. This is commonly done by recompressing the diver in a chamber. This repressurizing reduces bubble size and promotes rediffusion of the gas into the tissues and bloodstream. Once relief of symptoms is reached, decompression may begin at a slower rate to prevent recurrence of decompression sickness.

Inclet # 344-122 934-A TD 5.8:Sa 1/2/v.1/ch.8
C-241 MAY 12 1981 contin

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
U.S. COAST GUARD (G-MP-5)
WASHINGTON, D.C. 20590
PHONE: (202)426-9776

9350

COMDTNOTE 16000
18 MAR 1981

COMMANDANT NOTICE 16000

CANCELLED: 21 SEP 1981

Subj: CH-8 to Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual, COMDTINST M16000.3 (old CG-495)

1. PURPOSE. This Notice transmits a change to Volume I of the Marine Safety Manual by adding part 6-9 (Coast Guard Utilization of Civilian Aircraft) and a volume index; revising parts 10-2 ((Interim) Marine Safety Information System) and 20-2 (CVS Case Files); and indicating pen-and-ink corrections to the volume.

2. DIRECTIVES AFFECTED. None.

3. SUMMARY OF CHANGES. Part 10-2 provides information on the (I)MSIS, which has replaced the Port Safety Reporting System (PSRS).

4. ACTION.

a. Remove and insert the following pages:

Remove	Insert
6-0:1, CH-7	6-0:1, CH-8
6-9:1, CH-1	6-9:1 thru 6-9:8, CH-8
10-0:1 thru 10-0:2, CH-7	10-0:1 thru 10-0:2, CH-8
10-2:1	10-2:1 thru 10-2:2, CH-8
20-2:7 thru 20-2:10, CH-4	20-2:7 thru 20-2:9, CH-8
	Index, 1 thru 19
	One CG-5122 Self-mailer

b. Make the following pen-and-ink corrections:

(1) In paragraph 2-8-1F(1), pg. 2-8:3, change "chapter 87" to read "section 80-2-5A";

DISTRIBUTION - SDL No. 112

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A																										
* B	*	4	15*		5		2	*		5				200	1		2	1								
C					*		2		*			2	*													
D	1	2		1							1*	*													1	
E		2											2	2	*											
F	1		1							1									24							
G																										
H																										

NON-STANDARD DISTRIBUTION:

(See page 2.)

4. b. (2) In section 3-3-50A, pg. 3-3:6, delete "Portland OR";

(3) In section 12-4-1A, pg. 12-4:1, change last sentence to read "commercial diving operations";

(4) In subpart 20-4-20, pg. 20-4:2, change "Underwater Safety Project" to "Pollution Response Branch"; Commandant staff symbols to "G-WER-2"; and telephone number to "426-9568".

c. Make an entry on the "Record of Changes" page at the front of the volume.

5. CHANGES. Suggestions for improvements to the Marine Safety Manual should be made on Form CG-5122, which has been supplied with the manual.

K. C. Sill
Chief, Office of Merchant Marine Safety

Encl (1) CH-8 to Volume I, COMDTINST M16000.3

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DOJ Torts Branch (New York, Washington D.C., San Francisco) (1).
NTSB (Marine Accidents Division) (2).

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CHAPTER 6--ADMINISTRATION OF MATERIEL

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PART 6-9 -- COAST GUARD UTILIZATION OF CIVILIAN AIRCRAFT

6-9-1. PROGRAM REQUIREMENTS

Marine safety units may occasionally require the use of aircraft for routine overflights or emergency response operations in the course of their responsibilities. *Emergency response operations* are those in which immediate Coast Guard response is required to prevent further loss of or damage to life, limb, property, or the environment due to a marine casualty, oil or hazardous materials discharge, or natural disaster. *Routine overflights* are conducted to monitor potential discharge or emergency situations, and are classed in two categories:

(A) Offshore Areas: Surveillance requirements are based on shipping density, location of offshore facilities, and the environmental sensitivity of the area. With the exception of the Great Lakes, overflight priorities are assigned to areas within the contiguous zone (to 12 miles offshore). Occasional random overflights may be made over the prohibited zone (12-50 miles offshore, or 12-100 miles offshore from the Canadian border to Long Island Sound, New York);

(B) Port Areas: Surveillance requirements are based on the amounts of petroleum products and hazardous materials handled within the marine safety zone. Ports handling ten million tons or more annually are prioritized by the actual amounts handled; ports with adjacent Coast Guard air stations are overflown on an assigned schedule regardless of the amounts moved (see plate 80-2-5A(2).1, volume VI of this manual, for a list of Coast Guard air stations and their assigned areas and patrol frequencies).

When the use of aircraft for fulfillment of marine safety duties is desirable or necessary, but Coast Guard aircraft are not available, the utilization of civilian-owned aircraft shall be available to the OCMI/COTP, in accordance with the policy in this part of the manual.

(NOTE: The term "emergency" as used herein does *not* anticipate use of civilian support in situations of inordinate risk to aircraft and passengers. Civilian resources shall not be utilized in conditions of imminent danger, nor shall leased resources be used in SAR operations.)

6-9-5. ADMINISTRATION OF AIRCRAFT

Each OCMI/COTP utilizing civilian aircraft shall designate a unit flight coordinator, who shall oversee the logistics and timely conduct of flight operations. To this end, the flight coordinator shall:

(A) Schedule all flights, as directed by the OCMI/COTP;

(B) Submit a surveillance/response plan, which includes updated weather information, to the OCMI/COTP prior to all flights (see plate 6-9-5.1 for a sample plan); (C) Maintain

radio contact with embarked personnel and keep apprised of the evolution of the flight;

(D) Submit completed Aircraft Use Reports to the district commander(m).

6-9-5A. LEASED AIRCRAFT

The district commander shall determine which marine safety units require access to civilian aviation services for augmentation of their missions. Each commercial service under consideration for a Coast Guard contract shall be investigated by the district commander to verify its level of personnel competence and safety record prior to selection. Prior to contract finalization, agreement shall be reached between the district commander and the contractor as to appropriate charges for flights of routine and emergency nature.

Each authorized unit shall apply a requirement-type contract with the selected aviation service, upon which a blanket delivery order will be issued each quarter; access to the contractor's

services will be maintained by the unit's giving notice that such services will be required in the next quarter. After each flight, the contractor shall complete an SF-44 invoice to itemize the costs for that operation. This invoice, certified by the OCMI/COTP, shall be forwarded to the district commander (f) for payment. When a series of flights is made in the execution of one response activity, all of these flights may be itemized on a single SF-44. When aviation services are part of Federal efforts to recover or mitigate a substantial threat resulting from a discharge, the costs for such services are chargeable to the Pollution Fund (see part 86-3, volume VI of this manual for pollution response guidance).

The contractor shall be notified of a scheduled flight at least 48 hours in advance. However, in light of the Coast Guard's mission requirements and the potential for emergency situations developing with little or no warning, all contracts shall require emergency access to aviation services as necessary, upon one hour's notice.

Generally, all leased aircraft flights shall originate and terminate at the same location. One-way transportation of Coast Guard personnel shall be provided only by specific authorization of the district commander(m), except when the OCMI/COTP determines such flights to be necessary during emergency response situations.

An "Aircraft Use Report" shall be completed and forwarded to the district commander(m) within five working days after each flight, unless the flight is conducted as part of a Federal removal activity. Reports shall be serially numbered according to their consecutive occurrence in the fiscal year(e.g., 1-80, 2-80). Additionally, telephone or message notification shall be made to the district commander (m) within one working day after an emergency response flight, indicating the nature and estimated cost of the flight. As on the SF-44 invoice, a series of flights made during one emergency response situation may be documented in one report (see plate 6-9-5A.1 for a sample Aircraft Use Report). The use of leased aircraft shall also be noted in the PSS/MEP Quarterly Report, utilizing item (C) and other appropriate sections of that form.

6-9-5B. CG AUXILIARY AIRCRAFT

The use of Coast Guard Auxiliary aircraft for marine safety overflights has been increasing, for several reasons. CGAUX members generally have a deep regard for the Service and a strong desire to assist the Coast Guard to the greatest extent possible. Private pilots are carefully evaluated to determine their proficiency and maturity before acceptance as CGAUX pilots; this includes a required minimum experience of 250 flying hours. Another significant "selling point" in the utilization of CGAUX resources is their relatively low cost; an average four-hour, single-engine Auxiliary flight costs $40, contrasting sharply with the expenses of leased services or Coast Guard aircraft.

Due to the limited number of pilots in an Auxiliary division, a marine safety unit may not be able to draw upon CG-AUX aerial resources in emergency situations. However, the utilization of CGAUX resources for routine overflight operations is encouraged. Initial contact with Auxiliary officers may be made through the district commander (ba). The unit shall have a designated liaison officer (such as the flight coordinator) to maintain close contact with the commander and pilots of the local flotilla. In this way, flight schedules can be coordinated with the flotilla and greater understanding between Service and Auxiliary personnel can be effected

In order for a CGAUX pilot to be credited for mission hours flown and reimbursed for fuel expended, official orders for participation must be issued prior to the flight. Two of the more common means of issuing orders to the Auxiliarist are:

(1) The district or group commander may authorize the OCMI/COTP to issue orders directly to the Auxiliarist for marine safety flights;

(2) The District Director of Auxiliary may issue "annual orders" which provide blanket authorization for Auxiliarists to operate officially, upon request by the OCMI/COTP.

District commanders have broad discretion in the issuance of Auxiliary orders, and variations on these methods are common.

The CGAUX *Air Operations Manual*, CG-505, outlines procedures and considerations for CGAUX pilots, and is recommended for review by marine safety officers working with the Auxiliary.

6-9-10. AUTHORIZED FLYING PERSONNEL

At each unit, two flight observers (FO's), officer and enlisted, may be authorized by the district commander to receive flight pay for participating in aerial operations, in accordance with the *Personnel Manual* (CG-207) and the *Personnel Management Information System Manual* (CG-207-3); the OCMI/COTP shall designate the unit FO's in writing. Nondesignated personnel may embark as observers, *on a voluntary basis only*, as authorized by the OCMI/COTP (or by the onscene coordinator during a Federal response effort).

Non-designated personnel shall *not* be authorized to receive flight pay.

The duties of a flight observer include:

(A) Taking advantage of aerial position to observe all applicable subjects of interest (e.g., incident sites, problem areas, alleged violators), taking photographs as appropriate or as instructed;

(B) Maintaining communications via VHF radio with the unit, other Coast Guard units or vessels, commercial vessels, or waterfront facilities as directed by the flight coordinator or OCMI/COTP;

(C) Caring for equipment issued for the flight;

(D) Submitting a flight log to the flight coordinator within two working days of the flight (see plate 6-9-10.1 for a sample flight log sheet).

Passengers other than Coast Guard personnel may be carried on board civilian aircraft, with the contractor/Auxiliarist's acceptance, *only* under the following conditions:

‡ Written authorization for the passenger's presence on the flight shall be secured from the OCMI/COTP;

‡ Such passengers shall have a direct interest in an activity, but shall not derive a competitive or personal gain from the flight.

6-9-15. FLIGHT SAFETY

Emergency response flights (forward or return legs) shall not be conducted in ground fog; when the ceiling is less than 1000 feet; or when the visibility is less than two miles for helicopter/three miles for fixed-wing aircraft. *Routine flights* shall not be conducted in stormy or deteriorating conditions. When there is an indication that initially clear weather conditions will deteriorate during the planned flight period, the flight coordinator shall reschedule the flight.

When embarked upon civilian aircraft, Coast Guard personnel shall conduct themselves so as to reflect favorably upon the Service, with these guidelines in mind:

‡ The contractor/Auxiliarist is ultimately responsible for the safety of the flight. To this end, the pilot shall be in command of the aircraft and Coast Guard personnel shall follow the pilot's instructions;

‡ All personnel must be alert to the hazards of operating machinery. They shall approach and depart the aircraft from the front, so that the pilot can see them at all times. They shall not walk around the tail section of a helicopter unless instructed to do so by the pilot, and shall keep their heads low and gear under control when boarding or leaving aircraft;

‡ Life vests shall be worn on flights over extensive water areas not within gliding distance of land, in all aircraft. Personnel shall wear working blues or coveralls, with foul weather gear as appropriate. Sunglasses and aural protectors (as necessary) shall be provided by the unit;

‡ Actual time over the area of interest during routine overflights shall be limited to a duration of three hours (*excluding* travel to and from the area and scheduled rest stops) to minimize fatigue, eye strain, and discomfort. Generally, there shall be no more than two such flights in any 24-hour period.

PLATE 6-9- 5.1
MSO NASHVILLE FLIGHT PLAN

Date of Flight:_____ Flight No. _____

Area to be patrolled and purpose:_____

_____

Observers:_____

Estimated Time Return:_____ Date _____

FOR WEATHER CALL 251-5378. Obtain weather information for Nashville and any other cities below that are near the intended route.

A. NASHVILLE: ceiling/visibility_____ _____ feet _____ miles
current wx: ground fog, light rain, heavy rain,

clearing by_____(time)

B. Clarksville, TN: ceiling/visibility_____ feet _____ miles

Other:_____

C. Paducah, KY: ceiling/visibility_____ feet _____ miles

Other:_____

D. Muscle Shoals, AL: ceiling/visibility_____ feet _____ miles

Other:_____

E. Huntsville, AL: ceiling/visibility_____ feet _____ miles

Other:_____

F. Chattanooga, TN: ceiling/visibility_____ feet _____ miles

Other:_____

G. Knoxville, TN: ceiling/visibility_____ feet _____ miles

Other:_____

H. Bowling Green, KY: ceiling/visibility_____ feet _____ miles

Other:_____

APPROVED:_____
(CO/Acting CO)

Submitted by:_____
(Title)

PLATE 6-9-5A.1

AIRCRAFT USE REPORT

UNIT: _____ REPORT NO. _____

DATE(S) OF USE: _____

PURPOSE OF FLIGHT: ____ Routine Surveillance

____ Emergency Response

_____Other:

WERE SERVICES RECEIVED UNDER A COAST GUARD-ADMINISTERED CONTRACT?

____ Yes : Contract No. _____
Purchase Order No. _____

____ No

AIRCRAFT TYPE, MAKE, AND MODEL: _____
(Indicate whether single- or multi-engine, fixed- or rotary-wing)

HOURS PRIOR NOTIFICATION: _____ WAS CONTRACTOR ABLE TO PROVIDE A/C AT REQUIRED TIME? _____ REASON FOR DELAY, IF ANY: _____

COST OF SERVICE:

FLIGHT TIME: _____ HRS AT $_____/HR	$ _____
FLIGHT TIME: _____ HRS AT $_____/HR	_____
STANDBY TIME: ____ HRS AT $_____/HR	_____
STANDBY TIME: ____ HRS AT $_____/HR	_____
OTHER CHARGES: (Specify) _____	_____
_____	_____
_____	_____
(Attach additional sheet if necessary)	
IF PAYMENT BY SF-44, ATTACH COPY 6.	TOTAL $_____

AIRCRAFT SERVICES OBTAINED FROM:

COMPANY: _____

ADDRESS: _____

_____

PLATE 6-9-5 A.1(Cont.)

COAST GUARD PERSONNEL ABOARD AIRCRAFT:

RANK/RATE	NAME	CUMULATIVE HOURS FLOWN THIS FLIGHT	THIS MONTH	THIS FY	FO?

PURPOSE OF FLIGHT/SUMMARY OF OPERATIONS:

SUBMITTED: _____ DATE: _____

344-122 O - 81 - 2

PLATE 6-9-10.1

AERIAL SURVEILLANCE FLIGHT LOG

PURPOSE OF FLIGHT: ___ Routine DATE OF FLIGHT:

___ Emergency Response A/C USE REPORT No. _____

___ Other:

AIRCRAFT INFORMATION: Rotary-wing _____

Fixed-wing single-engine _____

Fixed-wing multi-engine _____

AREA(S) PATROLLED: (COASTAL AREA/RIVER/PORT)

Harbors Observed: _____

Remote Harbors Observed: _____

HARPAT/INSPECTION Checkoff Sheet Completed _____

PERSONS ONBOARD: (a) _____
(b) _____
(c) _____
(d) _____

HOURS FLYING TIME: _____

HOURS STANDBY (DURING INSPECTION WORK): _____

HOURS DOWN (FUEL/FOOD/BREAKS): _____

HOURS OTHER: _____

TOTAL HRS _____

OBSERVATIONS: (Continue of reverse side if necessary)

SUBMITTED: _____
DATE: _____

MARINE SAFETY MANUAL

CHAPTER 10--INFORMATION AND DATA SYSTEMS

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PART 10-2--(INTERIM) MARINE SAFETY INFORMATION SYSTEM

10-2-1. OBJECTIVES OF (I)MSIS

The (Interim) Marine Safety Information System ((I)MSIS), formerly the Port Safety Reporting System (PSRS), is a computerized file of information that contains pollution, casualty, inspection, and violation data for vessels boarded and inspected by the U.S. Coast Guard. The system is organized for information retrieval by computer terminals at Coast Guard Headquarters (G-WPE), district offices (mps), and most COTP's/MSO's. The (I)MSIS stores and organizes a large volume of information to encourage standardization of enforcement among districts and from one port to another. It also establishes a communication link among captains of the port.

The data base is constantly being expanded and updated. The information in the data base is processed by Commandant (G-WPE), primarily from Report of Violation forms (Form CG-2636) filled out on routine port safety boardings of vessels visiting U.S. ports. Other sources of information for the data base besides Form CG-2636 include Certificates of Inspection (G-MVI), Letters of Compliance (G-MHM), List of Inspected Tank Barges and Tankships, COMDTINST M16711.7 (old CG-499) (G-MA), Lloyd's Register of Shipping, American Bureau of Shipping Record, and district (mps) correspondence concerning actions taken against violators.

10-2-5. RESPONSIBILITY FOR (I)MSIS

The responsibility for safeguarding the integrity, accuracy, and currency of the system lies with the users of the system. More specifically: boarding teams, when filling out a Report of Violation (Form CG-2636), must provide correct and complete information concerning vessel data, involved parties, and specific violations, as far as practicable.

10-2-10. UTILIZATION OF (I)MSIS

(I)MSIS provides desirable information for all command levels; i.e., field units, district offices, and Headquarters. The availability of the data is considered an advantage to port safety officers allocating resources, to marine safety patrols preparing for vessel boardings, to legal officers processing violation reports, to hearing officers assessing penalties, and to Headquarters managers developing programs or policies. G-WPE will use the system as a management tool to monitor the effect of enforcement policies and to draft statistical reports of port safety activities.

10-2-15. PUBLIC REQUESTS FOR INFORMATION

Although the (I)MSIS operates as an internal information exchange within the Coast Guard, the public has become increasingly aware of its potential usefulness beyond Coast Guard law enforcement. This awareness has generated requests for access to the records of the (I)MSIS.

The Commandant's policy is to make records available to the public as readily as possible. The procedures involved in Freedom of Information Act (FOIA) requests have in some cases delayed responses to legitimate requests for information. Therefore, in order to facilitate public access to vessel histories from the (I)MSIS, district commanders and COTPs are authorized to respond directly to local requests.

Since the local COTP has access to the type of information most frequently requested by private concerns, it appears appropriate that each local office respond to requests on an informal basis. They should also have discretion to refer requests through the FOIA procedures when circumstances suggest that more formality would be in order.

Direct response to requests from local maritime enterprises may also facilitate working relationships, and will, in any case, demonstrate cooperation and encouragement by the Coast Guard for industry to increase its safety consciousness.

The COTP or his representative is authorized to respond orally or in writing to oral or written requests from the public for vessel history printouts from the MSIS -- except in the following circumstances:

‡ When the request is considered administratively burdensome and can be handled more effectively by the district or Headquarters staffs.

‡ When the request appears to invade the commercial interests of a competing business or enterprise.

‡ When the request is beyond the scope of the access permitted to a COTP user ID (i.e., anything other than specific vessel histories, -Level 1).

‡ When the COTP prefers that the request be handled by district or Headquarters staffs.

In any of the above cases, the COTP or his representative should inform the person making the request that it must be submitted according to procedures established under the Freedom of Information Act. These procedures are outlined in chapter 20 of the *Public Affairs Manual*, COMDTINST M5728.1 and M5728.2.

In all cases, the COTP or his representative may consult with the (I)MSIS staff in G-WPE-5 concerning the most appropriate method of handling any request. It is also recommended that a record of any request and response be maintained locally against the possible challenge by a party that a request has been denied or inadequately answered.

Once the information from the (I)MSIS has been delivered to a requesting party, there may be demands that records be changed, qualified, or deleted. Any such challenge to the data should be directed immediately to G-WPE-5.

PLATE 20-2-5 B.1
PLANS FOR RETENTION
COMMERCIAL VESSEL SAFETY CASE FILES

A. Loading Manuals

B. Operating Manuals

C. Automation Test Procedures

D. General Arrangement

E. Inboard-Outboard Profile

F. Midship Section

G. Lifeboat and Lifesaving Equipment Arrangement

H. Fire Control Plan

I. Cargo Tank Arrangement and Cargo handling Systems

J. Descriptive Information on Fixed CO_2, Foam and Halon Firefighting Systems.

K. Hazardous Area Drawings

L. Steering Arrangement and Control Drawings

M. Correspondence which concerns Policy or is Non-Routine

N. Stability Information Including:

1) cross curves
2) hydrostatic curves
3) trim and stability booklet
4) floodable length curves
5) calculations of stability in intact or floodable conditions
6) body plan
7) tank sounding and capacity curves or tables
8) draft mark locations
9) stability letter
10) any letters in the file of importance in the determination of the stability of the vessel

PLATE 20-2-5B.2

APERTURE CARD INFORMATION FOR CVS PLANS

Columns	Identification	Remarks
1-6	Vessel Official Number	Permanent
7 (not used)		
8-52	Vessel Plan Title	As shown in the title block of an individual plan. May require abbreviation due to limitation of available columns. (See plate 20-2-5B.1.)
53-77	35mm Microfilm	Vessel plan
78-80	Frame Number	May require more than one print in an excessively large plan, i.e., more than the standard "E" size (34in. wide by 44in. long).

PLATE 20-2-10B.1

PERMANENT ADMEASUREMENT PLANS

Rough or Scaled Sketches and Drawings
Large-scale Arrangement Plans
Large-scale Framing Plans
Water-ballast Piping Plans
Light and Air Plans
Large-scale Engineroom Plans
Curves of Form
Bonjean Curves
Tonnage Opening Plans
Tonnage Plans, Profile Arrangements, and Sketches

Note: In addition to the above listed plans, any plan which may have a unique or significant value to a staff member in the future may be included in the case file. Such plans shall be briefly annotated to indicate the special reason for retaining.

APERTURE CARD INFORMATION FOR ADMEASUREMENT PLANS, SKETCHES, AND DRAWINGS

Columns	Identification	Remarks
1-6	Official Number (if known)	Permanent
7 (not used)		
8-27	Vessel Name (only if no official number is shown).	Subject to change
28 (not used)		
29-52	Certificate Number (if shown)	Permanent
53-77	35mm Microfilm Note: May also require "to scale" on 105mm microfilm.	Vessel Plan
78-80	Frame Number	If applicable to to 35mm microfilm.

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DEPARTMENT OF TRANSPORTATION U. S. COAST GUARD CG-5122 (5-77)	**SUGGESTION FOR IMPROVEMENT TO THE MARINE SAFETY MANUAL, ~~CI~~ M16000.3**

INSTRUCTIONS

Think out your suggestion thoroughly and describe it fully. Give careful consideration to whether your suggestion has local, Coast Guard-wide or broad marine safety application. You may wish to discuss your suggestion with appropriate supervisors and other personnel.

FROM: *(Unit Name and Address)*	NATURE OF SUGGESTION ☐ ADDITION ☐ CORRECTION ☐ DELETION ☐ OTHER *(Specify)*

SUGGESTION: Explain your proposal in sufficient detail so reviewing officers will know exactly what you are proposing. Specify if your proposal has local, Coast Guard-wide or broad marine safety application. Cite the specific section(s) of the manual you are commenting on and specify the benefits of your suggestion. *(If more space is needed, continue on extra sheet).*

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15 JUN 1981

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COMMANDANT NOTICE 16000

CANCELLED: 15 DEC 1981

Subj: CH-9 to Volume I - ADMINISTRATION AND MANAGEMENT of the Marine Safety Manual, COMDTINST M16000.3

1. PURPOSE. This Notice transmits a change to Volume I of the Marine Safety Manual by revising part 10-18 (The AMVER System) and part 13-1 (General Penalty Procedures) of the volume.

2. DIRECTIVES AFFECTED. None.

3. ACTION.

   a. Remove and insert the following pages:

Remove	Insert
10-18:1, CH-7	10-18:1 thru 10-18:2, CH-9
13-1:17 thru 13-1:20, CH-6	13-1:17 thru 13-1:20, CH-9

   b. Make an entry on the Record of Changes page to the volume.

4. CHANGES. Suggestions for changes to the Marine Safety Manual should be made on Form CG-5122.

L. N. HEIN
Acting Chief, Office of Merchant Marine Safety

Encl: (1) CH-9 to Volume I, COMDTINST M16000.3

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B:c CCGD12 (mep) only (7)(extra).
B:h Alameda only (2).
C:e Baltimore (41); San Francisco (40); Hampton Roads (27); Miami (24); Mobile (22); Boston, Honolulu (20); Jacksonville, Galveston, San Diego (18); Detroit (14); Portland ME, Chicago, Corpus Christi, Cleveland, Duluth (12); St. Louis (11); Providence, Pittsburgh, Wilmington, Charleston, Buffalo (10); Memphis, Portland OR (9); Huntington, Paducah, Port Arthur (8); San Juan, Milwaukee, Toledo, Anchorage (7); Cincinnati, Nashville, Albany, Tampa, St. Paul, Juneau, Valdez (6); Louisville (5); Savannah, Guam (3); Sturgeon Bay (2).
C:i Pago Pago only (1).
C:m New Orleans (140); Seattle (35); Philadelphia (30); Long Beach (25), Houston (24); New York (22); St. Ignace (8); Rotterdam (6).
D:k New York (3); Jacksonville, Houston, New Orleans, San Francisco (1)(extra).
D:l CG Liaison Officer, NWC only (1).
E:o Long Beach (25); New Orleans (16); New York (15); Houston (12); Philadelphia (6); Seattle (5); New Haven, Muskegon (4); Sault Ste. Marie (3); New London, Humboldt Bay, Monterey (2).

Panama Canal Zone Liaison Officer (1).
DOJ Torts Branch (New York, Washington D.C., San Francisco) (1).
NTSB (Marine Accidents Division) (2).
ABS (1).
MSC (M-22) (1).

MARINE SAFETY MANUAL

PART 10-18 -- THE AMVER SYSTEM

10-18-1. POLICY

The mission of the Automated Mutual Assistance Vessel Rescue (AMVER) System is to maintain on plot the location of commercial vessels throughout the world for utilization in search-and-rescue (SAR) activities. Data on predicted vessel locations and their SAR capabilities are made available to rescue coordination facilities of any nation during maritime emergencies. Such information is considered proprietary in nature and, hence, is not disclosed except to bonafide authorities during emergency situations.

In order to successfully accomplish its objective, AMVER seeks to obtain the most complete vessel plot possible - one which will identify a mininum of 75% of commercial vesels engaged in offshore voyages or activities for 24 hours or more. Achievement of this goal is sought through:

- The AMVER Communications Center, located on Governor's Island, N.Y.;
- A worldwide voluntary communications network which receives and relays vessel location data to the AMVER Center;
- A vigorous AMVER Education Program pursued by each district, at all levels of command.

10-18-5. IMPLEMENTATION

AMVER is operated under the general guidance of the Commandant, with operational control vested in the Commanders, Atlantic and Pacific Areas. District commanders promote positive support for the program through the activities of personnel under their commands; the Chief of the Marine Safety Division provides the District AMVER Officer with assistance in establishing liaison with industry managers to increase participation in the program. OCMI/COTP's promote and publicize the AMVER program through industry liaison, designation of an AMVER Boarding Officer for marine safety units, and by designating selected AMVER boardings in conjunction with policy of the district commander.

All marine safety personnel must be aware of the mission, objectives, benefits, and procedures of the AMVER system to provide effective support for the program.

10-18-10. EDUCATION

The overall goal of the AMVER Educational Program is to maximize the information on vessel location throughout the world, to maintain an effective plot for use in emergency situations. Among the means by which this is accomplished are industry liaison efforts and AMVER boardings.

AMVER boardings are visits by the District AMVER Officer or the designated representative of the OCMI/COTP to commercial vessel owners, masters, and agents. These visits are conducted to explain the benefits of participation in AMVER or to maintain contact with participants. Frequently, such boardings provide the only means for masters or agents to obtain information about the program and have questions answered. For this reason, boardings are perhaps the most vital part of the educational program.

Commander, Atlantic Area publishes the AMVER Company Report, a print-out which is provided to shipping managers. The report indicates which vessels in a commercial fleet are participants in AMVER and which ones have been involved in SAR activities in the past year. The AMVER Company Report has been extremely well-received by industry and provides a convenient means of dialogue between industry and the Coast Guard.

Further information on the AMVER system may be obtained from Commandant (G-OSR-4).

PLATE 13-1-1.3(cont.)

You should be aware that the Act specifically provides that the following factors are to be considered in determining the appropriate penalty size: (1) the gravity of the violation; and (2) demonstrated good faith in attempting to achieve rapid compliance after notification of violation. You may wish to particularly address yourself to the latter point, so that this matter may be considered should you be found liable for a penalty. Failure to submit evidence on this point may be viewed as a waiver of the consideration of this factor in your favor.

Your attention is directed to 33 CFR 1.07-35 concerning confidential information. If there is information relating to trade secrets, financial or commercial information, or similar information which is exempt from public disclosure, that you wish to submit and have treated as confidential, please point this out, with the basis for the exemption, at the time the material is supplied so that I may handle it appropriately.

You have the right to be represented at all stages of the proceeding by counsel. If I receive notification that you are represented by counsel, I will thereafter direct all communications concerning the case to that counsel.

I have not yet made any penalty assessment in this case, and I will not do so until you have had the opportunity to present your side of the case. To assist you in evaluating my view of this case and in planning your further actions, 33 CFR 1.07-20 requires that I advise you of the amount of penalty which appears to be appropriate on the basis of the information presently before me. In this case, that amount is _____. I wish to emphasize that this is not a penalty assessment, but rather advice provided for your assistance. If you do not wish to have a hearing or to submit material for my consideration, you may pay that amount and the case will be closed. Your remittance, payable to "U.S. Coast Guard", should be submitted with reference to this letter and marked for "Collection Clerk." Similarly, if I do not receive a response from you by (date), then I will consider that you have waived your right to have a hearing or submit information, and I will make a decision in the case based on the materials before me at that time.

If you have any questions concerning this matter, please call me or my assistant, (name), at (telephone number).

Sincerely,

_____
Hearing Officer

PLATE 13-1-1.4

Letter of Assessment - No Response Situation

Re: Name of Vessel/Facility: Case No._____

Date of Violation:

Gentlemen:

By my letter of (date), you were given notice of the institution of civil penalty proceedings concerning the above violation and you were offered an opportunity for a hearing. I have not received a timely response and, as a result, your right to a hearing has not been waived.

"(State ruling at this point. This should include, at a minimum, findings on which violations have been established, and the amount of penalty for each violation for which a penalty is being assessed.)"

This decision may be appealed to the Commandant of the Coast Guard. To do so, you should submit the appeal and any supporting brief to me within 30 days. Since you have waived a hearing in this case, the appellate process is limited to consideration of jurisdictional issues. Failure to submit an appeal within the prescribed time will result in the penalty becoming final.

If you do not wish to appeal, you may pay the penalty by submitting your check, payable to "U.S. Coast Guard." If neither your appeal nor your payment is received within 30 days, the case will be referred to the U.S. Attorney for collection of the assessed penalty.

Sincerely,

_____
Hearing Officer

Copy to: Commandant (G-WPE)
Unit

PLATE 13-1-1.5

Letter of Assessment (following response or hearing)

Re: Name of Vessel/Facility: Case No._____

Date of Violation:

Gentlemen:

I have carefully considered all the materials presented by you in this case.

(State ruling at this point. This should include, at a minimum, findings on which violations have been established, and the amount of penalty for each violation for which a penalty is being assessed. Discuss any defenses raised at the hearing or in the response and give a ruling on each defense.)

This decision may be appealed to the Commandant of the Coast Guard. To do so, you should submit the appeal and any supporting brief to me within 30 days. Failure to submit an appeal within the prescribed time will bar its consideration, and failure to appeal on the basis of a particular issue will constitute a waiver of that issue in any subsequent proceeding. The issues which will be considered on appeal are those issues specified in your appeal which were properly raised before me, and jurisdictional issues.

If you do not wish to appeal, you may pay the penalty by submitting your check, payable to "U.S. Coast Guard." If neither your appeal nor your payment is received within 30 days, the case will be referred to the U.S. Attorney for collection of the assessed penalty.

Sincerely,

_____
Hearing Officer

Copy to: Commandant (G-WPE)
Unit